

PRISON RAPE REDUCTION ACT OF 2003

HEARING BEFORE THE SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY OF THE COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

H.R. 1707

APRIL 29, 2003

Serial No. 36

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://www.house.gov/judiciary>

U.S. GOVERNMENT PRINTING OFFICE

86-706 PDF

WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
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PRISON RAPE REDUCTION ACT OF 2003

TUESDAY, APRIL 29, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME, TERRORISM,
AND HOMELAND SECURITY
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 4:02 p.m., in Room 2237, Rayburn House Office Building, Hon. Howard Coble [Chairman of the Subcommittee] presiding.

Mr. COBLE. Good afternoon, ladies and gentlemen. The Judiciary Subcommittee on Crime, Terrorism, and Homeland Security will come to order.

This hearing is to examine the issue of sexual assault within Federal, State, and local correctional institutions and actions that are to be taken to address the issue.

Correctional institutions must deal with many issues that are unique to the population they house. H.R. 1707, the "Prison Rape Reduction Act of 2003," which has been introduced by my friends, Mr. Wolf and Mr. Scott, is intended to make prevention of sexual assault within correctional facilities a priority for Federal, State, and local institutions and require the development of national standards for detection, prevention, reduction and punishment of these incidents.

There were over two million individuals incarcerated in this country by the end of 2001. Although most correctional facilities have procedures in place to protect inmates against violence from other inmates while they are incarcerated, often these procedures are inadequate. We know violence occurs, but there is very little data regarding the number of violent incidences that occur in correctional facilities, and even less data on the incidence of sexual assaults.

Estimates from different experts put the incidence of sexual assaults of inmates as high as 13 percent. However, many argue that these studies are not accurate and, in fact, the incidence is much lower. Regardless of percentages, it is difficult to—it is generally agreed that these incidents have real consequences for the physical, emotional and psychological well-being of the prisoners who may one day be released back into society.

This legislation would require Federal, State and local governments to work with the Federal Bureau of Justice Statistics to study the number and effects of incidents of sexual assault in correctional facilities and hopefully provide accurate data for the first time on the actual number of incidents. It would also mandate that

the State and local governments adopt and maintain compliance with the national standards developed by the Attorney General to be eligible for increases in grant funding.

For institutions that comply with the Federal Government standards and requests for information, this legislation would increase of amount of all grant funding a State or local government receives by 10 percent at the expense of those States who do not comply with such requests or adopt such standards. Additionally, because this legislation requires that the grant funds designated must aggregate a minimum of one billion, affecting approximately one-third of all grants at the Office of Justice Programs, many different grants for many entities may be affected.

I am grateful to Mr. Wolf, author of the legislation, and the other witnesses appearing here today, because I think this is a problem that must be addressed. I want to assure Mr. Wolf and Mr. Scott that our Subcommittee staff is prepared to work in earnest with you and your staffs to address the concerns our witnesses have raised in their testimony to craft a workable and meaningful solution to this problem, which the gentleman's bill has aptly highlighted.

I am now pleased to recognize the distinguished gentleman from Virginia, the Ranking Member, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman, for holding this hearing on the Prison Rape Reduction Act.

Of over two million people incarcerated today, it is estimated that one in ten, or roughly 200,000, have been raped. A 1996 study of Nebraska prisoners reflected 22 percent had been raped or pressured and intimidated into sexual activity against their will. A 2001 report by the Human Rights Watch documented "shockingly high rates of sexual abuse in U.S. prisons." The research indicates that those subjected to sexual abuse in prisons are not abused just once but, on the average, nine more times during their incarceration. Youths in adult prisons are five times more likely to be raped than adults.

The effects of prison rape are devastating. The rape is recognized as a contributing factor to prison homicide, violence against staff, and institutional riots. Not only does it cause severe physical and psychological trauma to victims, it increases the transmission of HIV/AIDS, other sexually transmitted diseases, tuberculosis and hepatitis B and C, all of which exist at very high rates within U.S. prisons and jails.

Society pays dearly for ignoring prison rape. It makes victimized inmates more likely to commit crimes when they are released, thus negating Federal programs designed to reduce the incidence of crime. Inmates, often nonviolent, first-time offenders, come out of prison rape experiences severely traumatized and leave prison not only more likely to commit crimes, but far more likely to commit violent crimes than when they entered.

The high incidence of rape within prison also leads to increased transmission of HIV, hepatitis and other diseases outside of prison, which in turn imposes threats and costs to all of society.

The Supreme Court held, in *Farmer v. Brennan*, that deliberate indifference to the risk of prison rape violates the 8th and 14th amendment to the United States Constitution. While conditions

may be restrictive and even harsh, prison and jail officials must take reasonable measures to guarantee the safety of inmates.

Mr. Chairman, this bill requires prison accreditation organizations to examine prison rape prevention practices as a critical component of their accreditation reviews. The legislation has been carefully drawn to ensure comprehensive study and reporting of prison rape and reverse the perverse prison administration incentives that often make it exceedingly difficult for prison officials to engage in priority efforts to abate prison rape.

Mr. Chairman, I ask at this point unanimous consent to enter into the record a letter on the letterhead of Prison Fellowship Ministries, which includes the signatures of 35 organizations, diverse organizations such as the Religion Action Center on Reform Judaism, the Christian Coalition, the NAACP, the National Council of LaRaza, and many others. I ask unanimous consent that this be entered into the record.

Mr. COBLE. Without objection.

[The material referred to follows:]

Justice Fellowship

[Print](#) | [Back](#)**Initial Coalition Letter**

April 18, 2003

Dear Mr. Speaker
 Senator Frist
 Senator Daschle
 Majority Leader DeLay
 Minority Leader Pelosi:

We write to strongly urge your support for the Sessions-Kennedy-Wolf-Scott Prison Rape Reduction Act of 2003, H.R. 1707.

Those of us who have signed this letter have many disagreements on public policy matters, including a variety of issues relating to criminal law and punishment. But we are united in our unyielding determination to end the scourge of prison rape and to enact the Sessions-Kennedy-Wolf-Scott bill.

Of the 2 million prisoners in the U.S., a conservative estimate is that one in 10 has been raped – more than 200,000 inmates! Further conservative research indicates that inmates who are sexually assaulted are also victimized, on average, nine additional times during their incarceration. In addition, incarcerated youths are more likely to be raped than are adult inmates and, when they are, more likely to be acutely victimized and shattered.

The Sessions-Kennedy-Wolf-Scott bill is a moderate and necessary response to this crisis. It is designed to eliminate prison rape in a manner that is respectful of the primary role of States and local governments in administering correctional institutions and of the federal government's obligation not to impose unfunded mandates on them and to make the problem more fully visible to the American people and those who can combat it. Additionally, the legislation has been carefully drawn to ensure comprehensive study and reporting of prison rape, and to reverse perverse prison administration incentives that now often make it exceedingly difficult for prison officials to engage in priority efforts to abate prison rape.

The Sessions-Kennedy-Wolf-Scott bill is not only a means of protecting inmates. Society pays dearly for ignoring prison rape. Clearly, prison rape costs taxpayers greatly in recidivism and increased violent crime and thus negates federal programs designed to reduce the incidence of crime. Inmates, often non-violent first time offenders, come out of a prison rape experience severely traumatized and thus leave prison far more violent than when they entered. The high incidence of rape within prison also leads to the increased transmission of HIV, hepatitis and other diseases, which in turn imposes costs on all of society.

Fighting prison rape is also affirmatively mandated by the Constitution. As distinguished from federal programs designed to address problems ranging from teenage drinking to declining education standards, the Sessions-Kennedy-Wolf-Scott bill deals with plenary and constitutionally inescapable federal responsibilities – this in light of the determination of a near unanimous Supreme Court in *Farmer v. Brennan* that deliberate indifference to prison rape violates the 8th Amendment's cruel and unusual punishment provisions.

In the end, perhaps most importantly, the effort to combat prison rape is a moral imperative. Prison rape is nothing short of torture – the infliction of severe emotional and physical pain as punishment

and coercion. And, long after bodies have healed, the emotional trauma, shame and stigma of brutal and repeated prison rape lasts and embitters. Thus, prison rape not only derails justice – it destroys human dignity.

The Sessions-Kennedy-Wolf-Scott bill offers great hope that the brutality of prison rape can be sharply curtailed, and our joint effort to enact it is thus a coalition of conscience rather than convenience. As such, we take heart from the Speaker's strong endorsement of the bill, and are determined to see its effective, moderate provisions rapidly brought into effect. As men and women of good will we will not rest while the violence of prison rape continues, and we strongly urge you to join us in an effort also certain to bring credit on the United States at a moment when America's need to show its commitment to

democratic values has never been higher.

Working with the bill's sponsors, we stand ready to meet with you at your earliest convenience. If you would like additional information or have any questions please contact Mariam Bell, National Policy Director for Prison Fellowship Ministries, at (703) 478-0100 ext. 3630 or Vincent Schiraldi, President, Justice Policy Institute, at (202) 363-7847.

Very truly yours,

| | |
|--|---|
| American Values | Amnesty International USA |
| Center for Religious Freedom | Christian Coalition |
| Concerned Women for America | Focus on the Family |
| Human Rights and the Drug War | Human Rights Watch |
| Institute on Religion and Democracy | Justice Policy Institute |
| Kids First Coalition | NAACP |
| National Association of Evangelicals | National Center for Neighborhood Enterprise |
| National Center on Institutions and Alternatives | National Council of La Raza |
| Open Society Policy Center | Prison Fellowship |
| Salvation Army | Southern Baptist Convention |
| Stop Prisoner Rape | The Sentencing Project |
| Tradition, Family, Property Inc. | Unitarian Universalist for Juvenile Justice |
| Youth Law Center | Federal CURE, Inc. |
| MALDEF | Penal Reform International |
| American Probation and Parole Association | Aleph Institute |
| Alliance for Children and Families | Presbyterian Church USA |
| Religious Action Center of Reform Judaism | Union of American Hebrew Congregations |
| Physicians for Human Rights | National Association of Sentencing Advocates (NASA) |

cc: Senator Orrin G. Hatch

Congressman F. James Sensenbrenner, Jr.

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Mr. SCOTT. In the end, and perhaps more importantly, the effort to combat prison rape is a moral imperative. Prison rape is nothing short of torture, the infliction of severe emotional and physical pain as punishment and coercion. Long after bodies have healed, the emotional trauma, shame and stigma of brutal and repeated prison rapes lasts and embitters the individual. Thus, prison rape not only derails justice; it destroys human dignity.

We can do better than this as a society, and this bill ensures that we do. This is long overdue and I appreciate your willingness, Mr. Chairman, to move this matter further at this time.

I would also like to thank my colleague, Frank Wolf from Virginia, Chairman of the Commerce, Justice, State Appropriations Subcommittee, and chief sponsor of the bill, for his leadership and diligence in moving this matter forward.

I would also like to thank Michael Horowitz and Vinnie Sharaldi, leaders of an amazing coalition supporting this bill, for their vision, leadership and dedication.

I thank you again, Mr. Chairman, for working with this coalition to move this bill forward.

Mr. COBLE. Thank you, Mr. Scott.

Let me think aloud a minute, Frank, before I recognize you. Several weeks ago I met with the former Director of the Federal Bureau of Prisons, who has since retired. I told her that this issue very much concerns me. She, in fact, responded to me that she felt pretty good in the Federal system, that they have a pretty good handle on it, she said, that can detect prisoners who may well be vulnerable to these sort of inhumane attacks. I felt pretty good after having talked with her. I still know it's a problem.

Another feature that bothers me—and I haven't even talked to Mr. Scott or Mr. Sensenbrenner about it—is the overcrowding conditions in prisons, and the two may well go hand in hand. There may be a corollary. But the overcrowding conditions in Federal and State prisons, folks, is a time bomb ticking, particularly in State and local prisons.

I don't know, Frank, whether you plan to touch on that or not, but that's just food for thought, two matters that have plagued and troubled me for some time, and 50 State legislatures and perhaps the Congress may have to address the overcrowding which may well at least assuage some of the problems involving assaults.

Mr. Wolf, we're delighted to have you with us, the gentleman from the 10th District of Virginia. Mr. Scott and I usually adhere to the 5-minute rule inflexibly, but we will cut you a little slack, since you are a Virginia fellow and a friend of Mr. Scott. It's good to have you with us, Frank.

Mr. WOLF. I thank you, Mr. Chairman, for having the hearings, and I thank my colleague, Bobby Scott, for his support and effort and being a champion.

I think what Mr. Scott said, of this being a moral imperative, is exactly what it is. I will be brief, and then I'm going to read something and then leave.

A study in Nebraska found that 22 percent of prisoners in that State were forced to have sex against their will while in prison—forced. Think of your son, or think of your cousin, or think of your brother, or think of your next door neighbor, think of somebody like

that. Experts say that approximately 13 percent—and it's true, probably not as much in Federal prisons as in State prisons, and quite frankly, the Congress ought to look at this whole issue of sentencing guidelines, because we are forcing people into prison many times who ought not really be in prison. These numbers indicate the prison system has a problem.

This bill would address the problem in five ways: First, this legislation would allow officials to gather for the Bureau of Justice Statistics information about the extent of the problem of prison rape. There is probably not a lot of disagreement as to percentages. If it's 12, that's still high. If it's 22, that's absolutely high. If it's 1 percent, it's too high. Prison officials and policymakers must know, though, how pervasive prison rape is in our jails.

Secondly, the bill would make prison officials accountable for rape through a public review process. This is so private, there's nothing public, and therefore they can almost ignore it like it's not a problem. Prison officials must understand that what happens in prison to inmates matters. Containing prisoners behind four walls is not sufficient. They must be protected from violent rapes.

Third, a crediting agency would be required to examine the issue of prison rape when reviewing prisons. This will make prison officials further accountable for what happens in their prisons.

Fourth, a commission will be established to study the problems of prison rape and recommend national standards to address the problem.

Finally, there would be modest grant programs to provide funds for innovative ways to launch prison rape prevention and prosecution programs.

It is important to mention that this bill deals with prison rape in ways that respect the States' rights. There are many awful stories, and I will close my testimony with paraphrasing. I would urge all of you to read this—and I will get copies for the Subcommittee. You will not be able to go through this because it will literally make you sick. But I will paraphrase one of the letters given, "No Escape: Male Rape in U.S. Prisons", the Human Rights Watch.

This individual says, "I've been sentenced for a DUI offense, my third one. When I came to prison, I had no idea what to expect. Certainly none of this. I'm a tall male, who unfortunately has a small amount of feminine characteristics. And very shy. These characteristics have gotten me raped so many times I have had no more feelings physically. I have been raped at one time by seven men. I've had knives at my head and throat. I have fought and been beat so hard that I didn't even think I would see straight again."

"One time when I refused to enter a cell, I was brutally attacked by staff and taken to segregation, though I had only wanted to prevent the same and worse by not being locked up with my cell mate."

"There is no supervision after lockdown. I was given a conduct report. I explained to the hearing officer what the issue was. He told me off the record, he suggested that I find a man I would or could willingly have sex with to prevent these things from happening. I requested protective custody, only to be denied. It is not available here."

He also said there was no where to turn, no where to turn, no where to run, and it was best for me to just accept things.

He ends by saying, "I probably have AIDS now. I have great difficulty raising food to my mouth from shaking after nightmares . . ." and he goes on. A.H. in Indiana.

The other one is, when we had a hearing over on the Senate side—and I'll end with this statement. A mother of a young child, 16 years old in Texas, who was repeatedly raped in prison, when her son reported the rapes, the prison officials he was told, "rape happens every day. Learn to deal with it. It's no big deal." This 16-year-old, after repeatedly being abused and left to suffer by prison officials, hung himself. Why was he in prison? For setting a dumpster on fire.

This is a moral imperative. Mr. Scott is exactly right. This legislation cannot be delayed. The Justice Department is now on board, but they drug their heels on this. Each and every day, someone will be raped in a prison somewhere. In fact, each and every day many will be raped. We will get, the Members of this Committee, these stories, and after you read about five or six of them, you'll be sickened about what takes place. DUI, and now look what takes place.

Mr. Chairman, I thank you for these hearings. I appreciate the willingness of you to move them. I want to reiterate the list of people that Mr. Scott said, from the Salvation Army to the NAACP, to Chuck Colson, who has forgotten more about this issue than anyone probably knows, the Southern Baptist Convention, the Religious Action Center for Reform and Judaism, and many others who are for this. So, with your good work and moving this quickly, I think we can really make a difference in wiping out this—I won't even call it a problem—this terrible thing that takes place in prisons.

Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Wolf follows:]

PREPARED STATEMENT OF THE HONORABLE FRANK WOLF, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF VIRGINIA

Thank you, Chairman Coble, for providing me with the opportunity to speak before the subcommittee on a matter which impacts the national prison system and our communities—prison rape.

I also thank the subcommittee's ranking member, my Virginia colleague Bobby Scott, for introducing the Prison Rape Reduction Act of 2003 with me. Representative Scott has been a champion of this legislation. I value his partnership on this bill.

The Prison Rape Reduction Act of 2003 addresses the growing and tragic problem of prison rape. In a 1996 study, an estimated 22 percent of prisoners in Nebraska were pressured or forced to have sex against their will while in prison. Experts have estimated that approximately 13 percent of inmates in the United States have been victims of a sexual assault. Part of the problem with addressing the issue of prison rape is that there is insufficient data and research into this problem which experts claim is growing. This legislation would establish a program to collect prison rape statistics and data in the Department of Justice, providing prison officials and policymakers with a clearer idea of how pervasive the horrific problem of prison rape has become.

Victims of prison rape often suffer severe psychological trauma, and are sometimes infected with HIV/AIDS, tuberculosis, and other diseases. Treatment for these infectious diseases costs federal, state, and local jurisdictions additional dollars in administering their prison systems. Prison rape not only costs its victims their health and dignity, society also pays a price. When we turn a blind eye to prison

rape, we say that we do not care that prisoners are treated inhumanely. That is a position which portrays national and local leaders as callous and uncaring.

This legislation would establish a National Prison Rape Reduction Commission which would conduct hearings on prison rape and would issue a final report. This commission is vital to provide national standards to reduce prison rape. Such a commission would send the message that we as a society will not accept prison rape.

Mr. Chairman, prison rape is not an abstract or theoretical problem. It has a human face.

There are thousands of tragic stories from victims about prison rape. I have attached to my remarks several stories of the toll prison rape too often takes on its victims.

The Congress can act to make sure that these vile and violent acts are reduced. The legislation before you today takes concrete steps toward doing just that. I believe in being tough on crime. But this has nothing to do with being tough on crime. It has everything to do with human dignity and ending deliberate indifference toward prison rape, maintaining order in prisons, and reducing social and economic costs to a society left to deal with physically and psychologically damaged former inmates.

Allow me to end my statement with the story of a mother who testified on Capitol Hill last year. Her 16-year-old son was repeatedly raped in a Texas prison. When the son reported the rapes to prison officials, he was told "(rape) happens everyday, learn to deal with it. It is no big deal." This 16-year-old, after being repeatedly abused and left to suffer by prison officials, hung himself.

Why was he in prison?

For setting a dumpster on fire.

Mr. Chairman and members of the subcommittee, I respectfully urge you to move this bill and make sure that no mother ever has to live with such a haunting story for the rest of her life.

I thank you for allowing me to speak before you today.

Excerpts from Inmates Testimony to Human Rights Watch

Stories from *No Escape: Male Rape in U.S. Prisons*, Human Rights Watch, 2001.

New inmates are often treated like property by older and more violent inmates. An inmate in New York writes . . .

When a man finally gets his victim, he protects him from everyone else, buys him anything, the victim washes his clothes, his cell etc. In return the entire prison knows that this guy has a "BITCH" or "girl." Now I've seen this happen many times. The response from the guards is "the strong survive," "who cares," or they join in the teasing and tormenting. But someone who is not "protected" has other problems. I've seen inmates attacked by two or three men at a time and forced to the floor, while three men hold him down the fourth rapes him. I've known two men who have hung themselves after this.

An inmate from Arkansas . . .

I had no choice but to submit to being Inmate B's prison wife. Out of fear for my life, I submitted to sex, and performing other duties as a woman, such as making his bed. In all reality, I was his slave, as the Officials of the Arkansas Department of Corrections under the 'color of law' did absolutely nothing.

An inmate from Minnesota writes . . .

Most of the prisoners who rape are spending 5 to life. And are a part of a gang. They look for a smaller weaker individual. And make that person into a homosexual then sell him to other inmates of gangs. Anywhere from a pack of cigarettes to 2 cartons. . . . No one cares about you or anyone else. If they show kindness or are trying to be helpful, it is only because they want something. And if they are offering you protection you can guarantee that their going to seek sexual favors. . . . When an inmate comes in for the first time and doesn't know anyone. The clicks and gangs. Watch him like Wolves readying there attacks. They see if he spends time alone, who he eats with. Its like the Wild Kingdom. Then they start playing with him, Checking the new guy out. (They call him fresh meat.)

An inmate who was put in jail for a DUI offense . . .

I've been sentenced for a D.U.I. offense. When I first came to prison, I had no idea what to expect. Certainly none of this. I'm a tall white male, who unfortunately has a small amount of feminine characteristics. And very shy. These characteristics have got me raped so many times I have no more feelings physically. I have been raped by up to 5 black men and two white men at a time. I've had knives at my head and throat. I had fought and been beat so hard that I didn't ever think I'd see straight again. One time when I refused to enter a cell, I was brutally attacked by staff and taken to segregation though I had only wanted to prevent the same and worse by not locking up with my cell mate. There is no supervision after lockdown. I was given a conduct report. I explained to the hearing officer what the issue was. He told me that off the record, He suggests I find a man I would/could willingly have sex with to prevent those things from happening. I've requested protective custody only to be denied. It is not available here. He also said there was no where to run to, and it would be best for me to accept things . . . I probably have AIDS now. I have great difficulty raising food to my mouth from shaking after nightmares or thinking too hard on all of this . . . I've laid down without physical fight to be sodomized. To prevent so much damage in struggles, ripping and tearing. Though in not fighting it caused my heart and spirit to be raped as well. Something I don't know if I'll ever forgive myself for.

One Florida inmate, serving less than one year in prison . . .

I was raped in prison from Feb 1991 through Nov 1991. From that it left me H.I.V. positive.

Mr. COBLE. I'll pledge to you and Mr. Scott publicly that I will do all I can to help move this along, Frank. We thank you for being with us.

Mr. WOLF. Thank you very much, Mr. Chairman.

Mr. COBLE. We will invite our panelists to come forward. I'm going to read some background. I think you all in the audience need to know some of the credentials that these panelists bring to the table.

Our first witness today is Miss Tracy Henke, Principal Deputy Assistant Attorney General for the Office of Justice Programs in the United States Department of Justice. Miss Henke was designated to serve by Attorney General Ashcroft in June 2001. Her position requires her to advise and assist the Assistant Attorney General to carry out all policy, programmatic, legal and managerial matters.

Prior to joining the Justice Department, Miss Henke worked in the Senate for Senator Christopher Bond of Missouri as a senior policy advisor, and for Senator Jack Danforth. Miss Henke received her degree in political science from the University of Missouri at Columbia.

Our next witness, Mr. A.T. Wall, is Director of the Department of Corrections for the State of Rhode Island. He will be representing the Association of State Correctional Administrators and the Council of State Governments.

Mr. Wall was awarded a bachelor of arts degree and juris doctorate from Yale University. He has a distinguished career in corrections, beginning his career in corrections in 1976 as a probation officer. He subsequently served as Assistant District Attorney in Manhattan, NY, and as a principal policy analyst to the Governor of Rhode Island for issues related to criminal, juvenile justice, corrections, child welfare, and mental health and retardation. From 1987 to 1991, Mr. Wall served as Assistant Director for Policy and Development in the Rhode Island Department of Corrections.

In 1991, he became second in command in the Department as Assistant Director of Administration, and in 2000 Mr. Wall was ap-

pointed Director of the Department of Corrections, which supervises over 3,600 pretrial and sentenced inmates in eight institutions and 27,000 offenders in probation, parole and community confinement. He also currently serves as chair of the program and training committee for the Association of State Correctional Administrators and is a member of the Board of Directors for the Council of State Governments.

Our third witness is Mr. Charles Kehoe, President of the American Correctional Association. Mr. Kehoe received a bachelor of arts in psychology and sociology from Lewis University, and a masters degree in social work from the University of Illinois at Chicago.

He began his career as a social worker for the State of Illinois, first counseling delinquent youth, and then working in child protective services. Mr. Kehoe moved to Baltimore to become Deputy Director of Juvenile Services for the State of Maryland. In 1989, he became Director of the Department of Youth and Family for the State of Virginia. Most recently, Mr. Kehoe served as a consultant for juvenile and criminal justice correctional facilities for a number of organizations, including his current position as Vice President for Business Development, New Century, which provides technical assistance to adult and juvenile facilities.

Our final witness is Mr. Frank Hall, Director of the Eagle Group. Mr. Hall received his bachelor of arts from the University of North Carolina and a masters degree in public administration from Syracuse University's Maxwell School of Public Affairs.

Mr. Hall currently serves as a consultant on issues of public safety and new technologies. He has also served as Director of Special Projects for a private corrections company, providing services to both adult and juvenile offenders in the United States, Puerto Rico, and Great Britain.

Prior to that, Mr. Hall served as Commissioner of six State and local corrections departments, including Director of Juvenile Justice in New York, and most recently Commissioner of Corrections in Philadelphia.

It's good to have you all with us. I apologize for the lengthy introduction, but I think these panelists bring impressive credentials to the table and I felt that you all should know that.

We have written statements from each of you. I ask unanimous consent to submit into the record their entirety. As I said earlier, folks, Mr. Scott and I are sort of inflexible about red lights shining into your faces. We will not "keelhaul" you, however. But when you see the red light appear, that's a warning that your time is up.

Why don't we start with you, Miss Henke.

STATEMENT OF TRACY A. HENKE, PRINCIPAL DEPUTY ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS, U.S. DEPARTMENT OF JUSTICE

Ms. HENKE. I will do my best, and I might speak fast, sir.

Chairman Coble, Congressman Scott, my name is Tracy Henke, and as Principal Deputy Assistant Attorney General for the Justice Department's Office of Justice Programs, it is a pleasure to be here today to discuss H.R. 1707, the "Prison Rape Reduction Act of 2003."

Mr. Chairman, H.R. 1707 focuses attention on the problem of sexual assaults, including rape and sodomy, that exists within the Nation's prisons and jails. Congressman Wolf and Congressman Scott have been diligent in their efforts to advance the discussions on prison rape, and have shown clear leadership by introducing the Prison Rape Reduction Act. The Department of Justice is pleased to participate in this hearing.

As you are aware, Mr. Chairman, the Justice Department supports the principles of this legislation. At the Department, we want to ensure that Federal prisons address, work to prevent, and punish those that commit any type of sexual assault in prison, and we want to encourage our colleagues who manage State and local prisons to do the same. We are committed to reaching a consensus which would comprehensively address and support efforts for preventing, prosecuting, and punishing sexual assault and rape within the Nation's prisons and jails. By working with all interested parties, we are confident that an agreement can be reached.

The Department has worked with the sponsors and supporters of this legislation to provide technical assistance and information prior to its introduction. The Department remains committed to an ongoing dialogue that we believe will result in an effective and enforceable approach in the near future.

Mr. Chairman, as the Principal Deputy for the Office of Justice Programs, or OJP, it is important to discuss the impact that H.R. 1707 will have on OJP's formula grant programs which directly support State and local law enforcement and public safety activities. This is the issue which will be the focus of my comments.

As background, it is important to state that the Department has been working on the issue of prison rape for over 2 years. In the spring of 2001, the Department initiated the Prison Rape Working Group, which worked with supporters of the legislation and with organizations such as the American Correctional Association, or ACA. The Department drafted a framework for the new standards and worked with the ACA to have them adopted. The new standards are now in effect. The Department believes that, collectively, these new standards will assist in the prevention of prison rape and the effective handling of rape and sexual assaults that occurs in prisons and jails.

Without doubt, the Department's current efforts to address prison rape and sexual assault will be enhanced by the \$13 million provided by the Congress in the Department's fiscal year 2003 appropriations act. Utilizing these funds, the Department will conduct research and statistical analysis on victims and victimization in correctional environments.

As I mentioned earlier, Mr. Chairman, the Justice Department is supportive of the principles of the legislation. However, some ambiguity and concern remains. We look forward to working with the sponsors and supporters of the legislation to craft a workable solution that achieves our common goal of preventing, prosecuting, and punishing sexual assault and rape in our Nation's correctional facilities.

Specifically, one of the concerns that exists for OJP is the effect the incentive provisions of the legislation would have on existing grant programs, as well as the practical implementation of the nec-

essary augmentation that would be required to underlying formulas.

As you are aware, under sections 8 and 11, States that adopt national standards would receive up to a 10 percent increase in their share of funding under any Federal formula grant program designated by the Attorney General as having a relationship to the failure to abate prison rape. This increase in funding would be achieved by reducing the shares of those States which do not comply. Programs that could potentially be impacted include the Byrne Formula, the Local Law Enforcement Block Grant, the Residential Substance Abuse Treatment for Prisoners, the Juvenile Accountability Incentive Block Grants, and Grants to Combat Violence Against Women.

As an example, let's look at sections 8 and 11 and the impact on the Byrne Formula as it relates to—let's use five States. California, Florida, Illinois, New York and Texas are in compliance with provisions of section 8, hypothetically. These States would each receive a 10 percent increase over their allocation. The total increase for these five States for fiscal year 2003, if the bill were enacted, currently would amount to \$15.6 million. This represents a \$15.6 million reduction in funds available to remaining States and territories. Under this hypothetical, Mr. Chairman, your State of North Carolina would lose \$694,000. Congressman Scott's, Congressman Goodlatte's and Congressman Forbes' Commonwealth of Virginia would lose \$607,000.

These numbers reflect a 10 percent augmentation in the formula, but the legislation provides for substantially greater augmentation which could result in larger changes to the underlying formulas.

This hypothetical focuses only on the Byrne Formula Program and doesn't take into account potential reductions in other formula programs that the Office of Justice Programs administers or elsewhere within the Federal Government. The \$497 million of the Byrne Program represents less than half, less than half of the minimum required to be designated by the Attorney General.

The proposed formula augmentations would reduce funding for State and local law enforcement, including first responders such as local police and sheriffs departments, for State prisons and local jails, potentially for substance abuse programs, and efforts to protect children from sexual exploitation and kidnapping.

I know my time is up, but real quickly, sir, another concern to the Department is that the Department believes that the integrity of the statistical collection and analysis by the Bureau of Justice Statistics be preserved. The legislation currently requires BJS not only to collect but also to analyze data and produce reports on that analysis in a very short timeframe. We recognize the need for quick access to this information, but it must be balanced by providing BJS the opportunity to accurately and sufficiently analyze the data collected.

Finally, the law authorizing BJS prohibits BJS from gathering data for any use other than statistical or research purposes. By requiring BJS to identify facilities "where the incidence of prison rape is significantly avoidable," the legislation calls for BJS to make judgments about what level of prison rape is "significantly

avoidable". This responsibility goes beyond BJS' authorized statistical role.

Mr. Chairman, I appreciate the time afforded and I look forward to any questions that you or Congressman Scott might have.

[The prepared statement of Ms. Henke follows:]

PREPARED STATEMENT OF TRACY A. HENKE

Chairman Coble, Congressman Scott, members of the subcommittee, my name is Tracy Henke, and as Principal Deputy Assistant Attorney General for the Justice Department's Office of Justice Programs, it is a pleasure to be here today to discuss H.R. 1707, the "Prison Rape Reduction Act of 2003."

Mr. Chairman, H.R. 1707 focuses attention on the problem of sexual assault, including rape and sodomy, that exists within the nation's prisons and jails. Congressman Wolf and Congressman Scott have been diligent in their efforts to advance the discussions on prison rape and have shown clear leadership by introducing the "Prison Rape Reduction Act." The Department of Justice is pleased to participate in this hearing.

As you are aware, Mr. Chairman, the Justice Department supports the principles of this legislation. At the Department we want to ensure that Federal prisons address, work to prevent, and punish those that commit any type of sexual assault in prison, and we want to encourage our colleagues who manage state and local prisons to do the same. We are committed to reaching a consensus which would comprehensively address and support efforts for preventing, prosecuting, and punishing sexual assault and rape within the nation's prisons and jails. By working with all interested parties we are confident that an agreement can be reached.

The Department has worked with the sponsors and supporters of this legislation to provide technical assistance and information prior to its introduction. In addition, the Department has provided information regarding concerns with the proposed language of the legislation. The Department remains committed to an ongoing dialogue that we believe will result in an effective and enforceable legislative product in the near future.

Mr. Chairman, as the Principal Deputy Assistant Attorney General for the Office of Justice Programs, it is important to discuss the impact H.R. 1707 will have on OJP's formula grant programs which directly support State and local law enforcement and public safety activities. This issue will be the focus of my comments.

As background, it is important to state that the Department has been working on the issue of prison rape for over two years. In the spring of 2001, the Department initiated the Prison Rape Working Group which worked with supporters of the legislation and with organizations such as the American Correctional Association (ACA). The Department approached the ACA and requested that they consider adopting national standards to deal with prison rape. At the ACA's request, the Department drafted a framework for the new standards and worked with the ACA to have them adopted. The new standards have been adopted and are now in effect. Some of the new standards are: 1) providing mandatory training courses to corrections staff in handling rape and sexual assault in both adult and juvenile facilities; 2) written policies and procedures addressing the handling of potential offenders, as well as intervention and treatment; 3) written policies and procedures requiring documented investigations of assaults and threats; 4) written policies and procedures which ensure that sexual contact between prison staff and inmates is prohibited and subject to administrative and criminal sanctions; and 5) ensuring that victims of sexual assault are referred to an appropriate treatment facility, receive appropriate mental evaluation and counseling, and if necessary, are referred for long-term follow-up care. The Department believes that, collectively, these new standards will assist in the prevention of prison rape and the effective handling of rape and sexual assault that occurs in prisons and jails.

Without doubt, the Department's current efforts to address prison rape and sexual assault will be enhanced by the \$13 million provided by the Congress in the Department's Fiscal Year 2003 appropriations act. Utilizing these funds, the Department will conduct research and statistical analysis on victims and victimization in correctional environments.

Specifically, OJP's Bureau of Justice Statistics (BJS) has developed plans to conduct a statistical analysis on sexual assault victims and victimization that measures the prevalence of that victimization. OJP's National Institute of Justice (NIJ) will be sponsoring research focusing on sexual assault offenders and offenses in prisons and jails. This research will provide BJS with information it will need to adjust their prevalence estimates to account for outside factors influencing the incidence

of sexual assault in correctional environments. Working collaboratively, BJS and NIJ will empanel a group of recognized subject matter experts from the research and practitioner communities to assist both agencies in defining the various characteristics and factors involved in sexual assault in ways that will allow their objective measurement. We need solid research so that we can determine what steps will be most effective to root this horrible problem out of our prisons and jails.

As I mentioned earlier, Mr. Chairman, the Justice Department is supportive of the principles of the legislation; however, ambiguity and concern over just a few provisions still exist. For instance, we believe that there are better ways to address compliance issues associated with the abatement of prison rape than adjustments to formula grant programs as they are proposed in the current bill. We look forward to working with the sponsors and supporters of the legislation to craft a workable solution that achieves our common goal of preventing, prosecuting, and punishing sexual assault and rape in our nation's correctional facilities.

Specifically, one of the concerns that exists for OJP is the effect the incentive provisions of the legislation would have on existing grant programs as well as the practical implementation of the necessary augmentation that would be required to under-lying formulas.

As you are aware, under Sections 8 and 11, States that adopt national standards would receive up to a ten percent increase in their share of funding under any Federal formula grant program designated by the Attorney General as having a relationship to the failure to abate prison rape. This increase in funding would be achieved by reducing the shares of those States which do not comply. We have already tentatively identified twenty formula programs administered just by the Office of Justice Programs which could be impacted by these provisions. These programs include the Byrne Formula Grant Program, the Local Law Enforcement Block Grant Program, the Residential Substance Abuse Treatment for State Prisoners Grant Program, the Juvenile Accountability Incentive Block Grant Program, and Grants to Combat Violence Against Women.

As an example, consider the impact of Sections 8 and 11 on State allocations under the Byrne Formula Grant Program. As you know, under the Byrne Program, the Office of Justice Programs, through its component, the Bureau of Justice Assistance, makes awards directly to States. These funds are used by States and also sub-awarded by States to local governments. Byrne funds can be used by States and localities for a broad array of public safety activities including funding police and sheriff departments, correctional facilities, court systems, and drug enforcement efforts. In Fiscal Year 2003, Congress appropriated approximately \$497 million in Byrne Formula funds. Assuming that H.R. 1707 was enacted into law as it is currently written, let's look, as a hypothetical, at five States: if California, Florida, Illinois, New York, and Texas were in compliance with the provisions of Section 8, these States, under the incentive provisions of Sections 8 and 11, would each receive a ten percent increase over their allocation. The total increase for these five States would amount to \$15.6 million, or three percent of the entire Fiscal Year 2003 appropriation. This also represents a \$15.6 million reduction in funds available to the remaining States and territories. Under this hypothetical Mr. Chairman, your State of North Carolina would lose \$694,000; Congressman Scott's, Congressman Goodlatte's, and Congressman Forbes' Commonwealth of Virginia would lose \$607,000; Congressman Chabot's State of Ohio would lose \$952,000; Congressman Green's State of Wisconsin would lose \$454,000; Congressman Pence's State of Indiana would lose \$513,000; and Congressman Meehan's State of Massachusetts would lose \$536,000. These numbers reflect a ten percent augmentation in the formula, but the legislation provides for substantially greater augmentation which would obviously result in larger changes to the underlying formulas and to the amounts each State would be entitled to.

Mr. Chairman, this hypothetical focuses only on the Byrne Formula Program, and does not take into account potential reductions in the other nineteen formula programs the Office of Justice Programs administers or any other formula grant program throughout the Federal government. The \$497 million of the Byrne Program represents less than half of the minimum total Federal funds that the Attorney General must identify under Section 11 for formula augmentation. Ultimately, the actual reduction in funds that States could see would be substantially more than just the Byrne program.

The proposed formula augmentations would reduce funding for State and local law enforcement, including first responders such as local police and sheriffs departments, for State prisons and local jails, local narcotics task forces, shelters for battered and sexually abused women, substance abuse programs, efforts to protect children from sexual exploitation and kidnaping, and for numerous other State and local efforts. We must remain cognizant of the financial demands on State and local

governments and the effects that unexpected changes in the availability of formula funds would have.

The language of the legislation would present difficulties for the Department in implementation because of ambiguities in allocating the incentive funds. For instance, consider the example of both the State of North Carolina and the City of Raleigh being eligible for incentive awards. If the Byrne program is identified as a relevant program, OJP can easily increase North Carolina's share of Byrne funds because the formula funds are awarded directly to States. However, OJP does not award Byrne funds directly to units of local governments. States are responsible for making decisions on how to subaward Byrne funds to local governments. It is unclear how OJP could increase Raleigh's share of Byrne funds.

It is also important to note another concern the Department has related to the statistical collection and analysis required by the legislation. It is of the utmost importance to the Department that the integrity of the statistical collection and analysis be preserved. The legislation currently requires BJS not only to collect, but also to analyze data and produce reports on that analysis in a very short time. We recognize the need for quick access to this information, but it must be balanced by providing BJS the opportunity to analyze accurately and sufficiently the data collected.

Finally, the law authorizing BJS prohibits BJS from gathering data for any use other than statistical or research purposes. By requiring BJS to identify facilities "where the incidence of prison rape is significantly avoidable," the legislation calls for BJS to make judgments about what level of prison rape is "significantly avoidable." This responsibility goes beyond BJS' authorized statistical role.

Mr. Chairman, the Justice Department shares your interest in reaching consensus upon an effective and enforceable approach to the problem of prison rape. I personally commit to working with the Committee, the sponsors, and supporters of this legislation to achieve our shared goal of effective prevention, prosecution, and punishment of prison rape. Again, thank you for the opportunity to appear before the subcommittee today. I would be happy to answer any question the members of the subcommittee might have.

Mr. COBLE. Thank you, Miss Henke.

I said Mr. Scott and I were inflexible. I'm going to violate that now. We gave you 6 minutes, so I'll give the rest of you six as well, if you need it.

Mr. Wall.

STATEMENT OF ASHBEL T. WALL, II, DIRECTOR, DEPARTMENT OF CORRECTIONS, STATE OF RHODE ISLAND; ON BEHALF OF THE ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS, AND THE COUNCIL OF STATE GOVERNMENTS

Mr. WALL. Thank you, Chairman Coble, Representative Scott, Representative Jackson Lee, I am A.T. Wall. I'm the Director of the Rhode Island Department of Corrections and I'm here on behalf of the Council of State Governments, which represents all elected and appointed State officials, and also the Association of State Correctional Administrators, the professional association for the 50 Directors of Corrections and the Administrators of Nation's largest jail systems.

We appreciate very much the bipartisan concern regarding sexual assault in correctional facilities. After all, protecting inmates and staff, as well as the public safety, are at the core of our correctional mission, a mission I have upheld since I began in this profession some 29 years ago.

We in corrections know that sexual assault occurs. We support the objectives of this bill. We want to prevent prison rape, assess the extent to which it occurs, respond swiftly and effectively, and we recognize this bill represents a moderate approach to dealing with the issue. We also recognize that, as corrections officials, we are accountable for the operations of our systems, including the im-

plementation of the initiatives that come about as a result of this legislation.

There is some provisions that we, as directors of corrections, believe would impede as opposed to assisting the efforts to reduce prisoner rape. We are also concerned that the bill not allocate significant resources to combat prison rape while overlooking another major issue in corrections that has widespread implications for the public safety.

Some particular changes that we would like to propose to the bill: first, national statistics. The Department of Justice is assigned to do a statistical report. We have two concerns. One is definitional issues, what constitutes rape in a correctional context. Sorting out consensual sex in a prison context can be complicated. The bill is silent as to whether sexual assault includes staff-on-inmate sexual assault, as well as inmate-on-inmate sexual assault.

We are also concerned that the bill draw on a wide variety of data sources beyond simply looking at self reports and inmate surveys. So we would recommend that the bill direct the Department of Justice to seek guidance from an advisory group in working out definitions and survey techniques, the group to include not only corrections administrators but prosecutors, police, victim advocates and former inmates.

Second, the review panel. The review panel is charged with holding public hearings, and administrators who are from the random sample selected by BJS and whose rates of sexual assault exceed the median will be brought forward to testify why their facilities have high rates. The concern that we have is that the panel should be charged with developing an approach to analyzing the data by interviewing the victims, administrators from a random sample of selected facilities surveyed and not simply rely on the public hearing approach but, rather, take a broader approach if the goal is to understand the context and causes of the issue.

Third, the national standards. We would like to assure that an accrediting organization such as ACA, that have done much work in this area, are consulted as part of the reviewing of the standards.

Fourth, the incentives to testify and comply. Those have been covered by Miss Henke. We're concerned that, in fact, as written, the language of the bill, which is intended to reward jurisdictions that are taking serious steps to combat sexual assault in prison and holding accountable those other systems, won't achieve those objectives for some of the reasons that Miss Henke identified.

We applaud the commitment to helping us protect inmates. We are also deeply concerned that a Federal initiative not ignore an emerging crisis in our field that has major implications for the safety of staff, inmates, and the general public.

As you well know—in fact, Chairman Coble, you alluded to it to some degree in your introductory remarks—nearly unprecedented fiscal problems are prompting governors to look at dramatic cuts to corrections' budgets. There are three ways to cut correctional budgets. One is to eliminate programs. The fact of the matter is, they're already thread-bear. There is not a lot of money to be gained that way.

The second is in operations, looking at staffing and security and making cuts there. The problem with that, of course, is that will compromise the safety of inmates as well as staff and, frankly, it will compromise the very objectives that H.R. 1707 seeks to achieve.

The third way to get a handle on correctional costs is by managing correctional populations differently, limiting the rates of growth, taking a look at the sheer numbers of people who are incarcerated in facilities. In managing growth in corrections, we are engaging in high-stakes decisions as we look at who's in there, how long they should stay, how well prepared they are for release, who should be supervised in the community as opposed to in custody, and how they should be supervised. Those are very important decisions and the risk is that they're going to be made without resources to determine that they are informed decisions. Right now, there is the risk that they will be made nearly blind, that States will be playing Russian roulette with major public safety implications.

What we are looking for is legislation to address this acute need for immediate targeted technical assistance in managing correctional costs without compromising public safety. We don't want to simply release hundreds of inmates as has been done in other jurisdictions. We need data, we need expertise, we need forms of technical assistance, such as the center that is established and DOJ would provide.

So thank you for giving us the opportunity to present specific, practical changes that will help correctional administrators combat rape. We hope that modifying the legislation will help us considerably to protect staff and inmates and ensure that deep cuts don't jeopardize the safety of the public as we look at correctional issues. We look forward to working with a truly impressive coalition that is organized so that we can incorporate our recommendations into the bill.

Thank you very much.

[The prepared statement of Mr. Wall follows:]

PREPARED STATEMENT OF ASHBEL T. WALL, II

Good afternoon. Thank you Chairman Coble and Ranking Member Scott for inviting me to testify regarding H.R. 1707, *The Prison Rape Reduction Act of 2003*.

My name is Ashbel T. Wall, and I am the Director of Corrections for the State of Rhode Island. Our corrections system is unified, meaning it includes both prisons and jails. Our average daily population is 3,500 inmates, housed in 8 institutions, and we receive about 17,000 commitments a year.

I am testifying today on behalf of the Council of State Governments (CSG) and the (ASCA) Association of State Correctional Administrators. CSG is a membership association serving all elected and appointed and state government officials; ASCA represents the 50 state corrections directors and the administrators of the largest jails systems.

Our organizations appreciate very much the bipartisan concern among members in Congress about sexual assault in corrections facilities. Protecting staff and inmates alike, in addition to maintaining community safety, is the core of our mission.

We know sexual assault occurs in prisons and jails, including our facilities in Rhode Island. We also know this is an issue that has been difficult to measure in our state, as well as nationally, let alone to compare rates among states and counties.

For these reasons, we support most of the objectives of H.R. 1707: we want to prevent prisoner rape; we want to assess the extent to which it occurs in our systems; and we want to respond swiftly and effectively when inmates are sexually assaulted.

We appreciate efforts to date by sponsors of the bill to incorporate in H.R. 1707 many changes that the corrections community recommended to earlier versions of this bill. There are, however, still some provisions remaining in H.R. 1707 that would impede—rather than assist—corrections administrators’ efforts to reduce sexual assault of inmates and end it altogether. We also are concerned that the bill allocates significant resources to combat prisoner rape while overlooking those issues in corrections that represent the greatest risk to the public in general.

My testimony will explain the concerns elected officials and policymakers serving Republican and Democratic governors alike have about the bill. I will also suggest changes to particular provisions in the bill that we believe would improve the legislation and make it state-friendly without compromising its purpose.

1. NATIONAL PRISON RAPE STATISTICS

Recommendation: Provide additional guidance to the authors of the study to ensure it reflects an accurate, comprehensive assessment of inmate sexual assault.

Like the supporters of the bill, we think a report prepared by the Department of Justice that assesses the extent to which prisoner rape occurs in prisons and jails across the country would be useful. The study, as it is currently described in H.R. 1707, however, would unlikely yield such a document.

The legislation overlooks important considerations that will need to be made in developing and designing the study. First, the bill does not sufficiently define what constitutes rape in a correctional facility. Sorting out what is and is not consensual sex in a prison is a complicated matter. Second, H.R. 1707 does not explicitly state whether the study should capture information about staff-on-inmate sexual assault, which, itself, is a complex issue. There is no such thing as consensual sex between staff and an inmate; by statutes, such incidents are a crime in nearly every state. The bill drafters need to state explicitly whether these data should be included in the study. Third, the legislation minimizes the importance of drawing upon data sources other than inmate surveys only.

We recommend the bill instruct DOJ to seek guidance regarding each of the above issues from an advisory group that would include corrections administrators, prosecutors, police chiefs, victim advocates, and former inmates. That way, we can be confident that the BJS study reflects an accurate and comprehensive assessment of prisoner rape in correctional facilities.

2. REVIEW PANEL ON PRISON RAPE

Recommendation: Request testimony or input from administrators who represent a random selection of institutions

Like the supporters of H.R. 1707, we think it would be useful for the Review Panel to hear from (and question) corrections administrators with varying rates of sexual assault in their facilities; such testimony should help to inform the annual report that DOJ issues. Instead of generating a constructive exchange, however, the hearing process that H.R. 1707 currently proposes would polarize discussion.

According to the legislation, corrections administrators summoned to testify would represent facilities that appear to have high rates of sexual assault. In fact, these corrections administrators would represent only those facilities with a high rate of sexual assault among the small group of institutions randomly selected for the survey. Consequently, corrections directors would likely devote much of their testimony to an explanation of why their participation in the hearing inaccurately suggests that they operate the most dangerous institutions in the country.

For these reasons, we recommend that the panel be charged with developing an approach to analyzing the data captured through the study and interviewing various experts and victims and administrators from a random selection of facilities surveyed ensures that hearings will be constructive and useful.

3. NATIONAL STANDARDS

Recommendation: Require the Commission to consult accrediting organizations that currently have standards (or are in the process of developing such standards) on sexual assault

The members and staff of accrediting organizations such as the American Correctional Association have spent time and resources preparing standards that address issues relating to sexual assault and the conditions of a facility or system that facilitate sexual assault. Nevertheless, the bill does not ensure that these accrediting organizations will be consulted on the development of the Commission’s standards—or even recognize that these organizations already have, or are in the process of re-

vising or developing, such standards. The National Prison Rape Reduction Commission (which is distinct from the Panel that the bill also establishes) should be directed to consult accrediting organizations that currently have standards on sexual assault, and to review existing standards and standards under development, before making its final report.

4. INCENTIVES TO TESTIFY AND COMPLY WITH COMMISSION STANDARDS

Recommendation: Limit the instances in which jurisdictions would be eligible for an increase and narrow the definition of the "source of funds for increases" from which the 10 percent reward will be drawn

We appreciate that the supporters of the bill would like to reward corrections administrators who adopt the standards developed by the National Commission. We also recognize that the members of Congress want to see administrators of systems with seemingly high rates of prisoner rape held accountable. Two examples illustrate, however, that, as currently written, the bill would achieve neither of these objectives effectively.

First, the bill provides an increase in federal grant funding to jurisdictions represented at the hearing convened by the National Review Panel. Because representatives of those jurisdictions that have seemingly high rates of prisoner rape are asked to testify, the bill appears to reward systems that do not necessarily merit an increase. Furthermore, funds for this increase would be drawn from "any [entity] not entitled to increases under this act." Accordingly, it is conceivable that a jurisdiction would lose federal funding only because it had the "misfortune" of not being included in the random sample.

Second, the universe of DOJ grants that a jurisdiction could see reduced includes funding support for a broad spectrum of issue-areas, such as victim compensation and community policing, which are completely beyond the scope of correctional administrators' authority. As a result, the state and local government officials who would be held accountable for reducing prisoner rape would be those who are powerless to ensure compliance with the standards imposed by the legislation.

5. THE EMERGING CRISIS IN CORRECTIONS

Recommendation: Make available limited, immediate, assistance, including peer-to-peer technical assistance, to jurisdictions seeking to cut corrections costs without compromising the safety of inmates, staff, or the public in general.

While we applaud Congress' commitment to helping us protect inmates, we are deeply concerned that this federal initiative ignores an emerging crisis in corrections that has major implications for inmates *and* for the safety of staff and the general public. Nearly unprecedented fiscal problems are prompting governors and legislatures to recommend dramatic cuts to corrections budgets. Corrections administrators trying to find such savings have three options. First, we could reduce spending on institutional security, but that would compromise the safety of inmates (not to mention staff)—which is precisely what H.R. 1707 intends to increase. Second, we could cut programming expenses. But prison and jail-based services are already threadbare. They offer little or no potential for savings. And, given that nearly every inmate will return to the community, further gutting of these programs will impact public safety adversely.

Really, the only way savings of the scale that governors and legislatures are looking for from our agencies can be achieved only by managing our prison population differently. In some states, that may mean limiting the rate of the system's growth. Accordingly, state officials must soon make high-stakes decisions about their prison population—who is in there, how long they should stay, how they are prepared for release, and how they are supervised in the community. Yet policymakers are without the resources to ensure their decisions are informed ones. As a result, with budgetary pressures in the states as acute as they are, state and local government officials will need to make nearly blind decisions—Russian Roulette with major public safety implications.

If Congress is to pass any legislation that addresses the safety of inmates, the accountability of corrections administrators, and the efficiency and effectiveness of federal expenditures through existing programs (as H.R. 1707 does), it needs to address state and local government officials' acute need for immediate, targeted, peer-to-peer assistance that would assist them manage corrections costs effectively without compromising public safety. We are aware of states, such as Kentucky, that in recent months, have responded to extraordinary fiscal pressures by releasing hundreds of offenders from prison, some of whom subsequently committed high-profile crimes, generating a firestorm of public criticism. There are other very recent developments

in states that we all hope to avoid: in California, legislators who voted for a bill making certain felons eligible for release, later asked the governor later to veto the legislation because they realized that it could be applied to some serious and violent offenders. These are experiences that other states could avert if they had the benefit of data, expertise, other forms of technical assistance, and information about what has worked in other jurisdictions across the country.

CONCLUSION

As this testimony reflects, we believe there are some specific, very practical changes that can be made to this legislation that would help corrections administrators across the country combat prisoner rape. More importantly, modifying the legislation as we have suggested would help us considerably with our efforts to protect staff and inmates alike and ensure that deep cuts imposed on corrections agencies do not jeopardize the safety of the general public. We look forward to working with members of the Committee, your staff, and the impressive coalition of organizations supporting the bill to incorporate these recommendations in the bill. Thank you.

Mr. COBLE. Thank you, Mr. Wall.
Mr. Kehoe.

STATEMENT OF CHARLES J. KEHOE, PRESIDENT, AMERICAN CORRECTIONAL ASSOCIATION

Mr. KEHOE. Thank you, Mr. Chairman. I am Charles Kehoe, President of the American Correctional Association. I wish to thank you and Ranking Member Scott for inviting us here today to discuss H.R. 1707, the "Prison Rape Reduction Act."

I would like to begin by commending the work of Representative Frank Wolf and Representative Bobby Scott on this issue. As a long-time Virginian, I have long admired their dedicated service to the Commonwealth and to our Nation.

I am here today to represent the American Correctional Association. ACA was founded in 1870 and is the Nation's only professional association representing all facets of corrections. It has nearly 19,000 members in all 50 States and more than 40 foreign countries. We promote broad-based public policies on crime and corrections, develop professional standards, administer a national accreditation program, and provide educational programs for corrections professionals at all levels. In short, we are a multi-disciplinary organization of corrections professionals.

In his remarks introducing the Prison Rape Reduction Act of 2003, Representative Wolf said prison rape has nothing to do with being tough on crime; it has to do with making our communities safer, reducing recidivism, and controlling the spread of communicable diseases. I agree completely with Congressman Wolf. In fact, those are central tenants of the American Correctional Association, and we wholeheartedly support the efforts of Mr. Wolf and Mr. Scott, as well as all others involved in their quest to reduce the incidence of prison rape.

The ACA supports the objectives of H.R. 1707. We believe that there should be a zero tolerance standard for the incidence of prison rape. We believe that prison officials should make the prevention of prison rape a priority. We want to ensure that prison officials are accountable for what goes on within their institutions. We thank the bill's sponsors for incorporating into H.R. 1707 many changes that the corrections profession recommended in earlier versions of the legislation. However, there remain a few provisions of H.R. 1707 about which we retain some reservations and would like to see clarified.

The strength of the ACA is in the fact that we are the only organization that accredits total correctional facility operations, including health care. We have in excess of 1,600 facilities and programs that are involved in the process.

Our profession has, within the past 3 years, adopted newer and more meaningful performance-based standards, standards that better define the value of what we do and how we do it.

The ACA Standards Committee, in January of 2003, finalized the adoption of several specific standards that address sexual misconduct and prison rape. First, we revise the intake screening procedures that would require inmates to be specifically identified who are vulnerable or have tendencies to act out sexually aggressive behavior.

It would also require that investigations be conducted and documented whenever there is an assault or threat of a sexual assault. And it would require that offenders identified who have histories of sexual assaultive behavior are assessed by mental health or other professionals as such.

Those with a history of assaultive behavior would be identified, monitored and counseled.

Lastly, the standards would require that offenders at risk for victimization are identified, monitored and counseled.

H.R. 1707 would establish the National Prison Rape Reduction Commission, established to study prison rape, report findings to Congress, and propose national standards for prevention. However, there is no guarantee that those, including the ACA, who have unique experience in the development and implementation of standards, will be consulted in the course of the Commission's work.

We would like to see a requirement that the Commission consult entities involved in accreditation in the development of national standards for the reduction of prison rape.

H.R. 1707 also calls for States to seek re-accreditation every 2 years. We have found it to be more economical and more efficient to have a 3-year accreditation process and would so recommend that for your consideration.

H.R. 1707 creates a Review Panel on Prison Rape to hear from correctional administrators whose departments are experiencing high rates of prison rape. The goals of the panel are no different than those of ACA accreditation—to ensure that corrections is open and accountable for the implementation of standards to prevent prison rape.

The legislation establishes this panel with three individuals. However, the legislation provides little guidance for this panel. We believe the panel should be structured in such a way to ensure that the panel promotes a dialogue which allows for a true understanding of the incidence of prison rape and which aids in the study and determination of the true impact of prison rape.

We, therefore, recommend that a majority of the members of the Review Panel on Prison Rape be drawn from the law enforcement community and have expertise in the operation of correctional facilities.

H.R. 1707 also calls for a study of the incidence of prison rape. However, it overlooks an important fact that needs to be taken into

account. First, the legislation as drafted does not adequately identify what constitutes rape in a correctional facility. Issues surrounding consensual sex are not addressed, and further defining what is meant by prison rape is necessary.

Secondly, the legislation does not specifically address whether prison rape would address staff-on-inmate sexual assault, as Director Wall mentioned earlier. Thus, we would recommend that the Department of Justice, in the development of a study relating to the incidence of prison rape, consult correctional administrators, prosecutors, victim advocates, former inmates and others who have direct institutional knowledge, in addition to the self-reporting by inmates.

As you well know, State and local correctional agencies across the country are grappling with shrinking budgets. In this environment, the efforts of the supporters of the bill to reward correctional administrators for their efforts in meeting the requirements of this bill are commendable. We appreciate the extent to which the sponsors of H.R. 1707 have gone to ensure that this bill does not place unfunded mandates upon the States.

Specifically, we appreciate the inclusion of language that says "significant additional costs compared to the costs presently expended by Federal, State, and local prison authorities" should be imposed. However, we believe that this term needs to be further defined. Thus, we recommend that the legislation be revised to define what, if any, further costs the implementation of national standards can place upon States and localities without providing Federal funding for the implementation of the standards.

I'm going to skip ahead. Actually, I think I'm out of time.

Mr. COBLE. Thank you, Mr. Kehoe.

Mr. SCOTT. Mr. Chairman, could he just read the recommendations? Since you have a couple of sentences on each one, if you can just read the recommendations, I would appreciate it.

Mr. KEHOE. All right.

We have recommendations relating to the manner in which funding will be distributed to States under the legislation, and reservations relating to the designation of programs for which funding for the implementation of this legislation be drawn. The current writing provides for an increase in Federal grant funding to jurisdictions represented at the hearings convened by the Panel. The legislation calls for these jurisdictions to be selected by among those included in a random sample of jurisdictions. Thus, those jurisdictions that are not a part of the random sample used to determine the incidence of prison rape would be ineligible for funding under the provisions of this legislation. In effect, this approach effectively rewards jurisdictions that appear to have a high incidence of rape, while reducing the funding available to jurisdictions that are not a part of the random sample.

To simplify, if all 50 States are in compliance with the provisions of H.R. 1707, it would reward the 10 States that are chosen from the sample and at the same time 50 other States would not be so designated. Under the legislation, the 10 States chosen may be eligible for a 10 percent increase in funding from certain formula grant programs. Does this does mean that the 40 States not chosen

at random are not eligible for an increase and could actually see decreased Federal assistance?

Funding for the implementation of H.R. 1707 is to come from the existing universe of formula grant programs, most of which are completely beyond the scope of correctional administrators' authority. In addition, relatively few DOJ grant programs are designated to provide aid exclusively to corrections. Thus, other elements of State and local law enforcement could see reduced funding as a result of this legislation.

I must ask whether the funding from victims' assistance programs, community policing or drug treatment programs could be used to fund the implementation of this act. Even more alarming is that as the legislation is currently written, the term "formula grant programs" could go beyond DOJ programs that impact law enforcement and corrections. Given the billion dollar minimum included in the legislation, it is likely that you would have to go outside of the Department of Justice programs. Thus, the Attorney General—

Mr. COBLE. Mr. Kehoe, why don't you suspend.

Mr. KEHOE. All right, Mr. Chairman.

[The prepared statement of Mr. Kehoe follows:]

PREPARED STATEMENT OF CHARLES J. KEHOE

Thank you for the opportunity to be here today. I am Charles Kehoe, President of the American Correctional Association. I wish to thank Chairman Coble and Ranking Member Scott for inviting me here today to discuss H.R. 1707, the Prison Rape Reduction Act of 2003.

I would like to begin today by commending the work of Representative Frank Wolf and Representative Bobby Scott on this issue. As a former Director of the Virginia Department of Youth and Family Services, and a long-time citizen of Virginia, I have long admired their dedicated service to the Commonwealth.

I am here today to represent the American Correctional Association (ACA). ACA was founded in 1870 and is the nation's only professional association representing all facets of corrections. ACA has nearly 19,000 individual members from all 50 states and more than 40 countries. We promote broad-based public policies on crime and corrections, develop professional standards, administer a national accreditation program and provide educational programs for corrections officials at all levels. In short, we are a multi-disciplinary organization of professionals representing all facets of corrections and criminal justice, including federal, state, and military correctional facilities and prisons, county jails and detention centers, probation/parole agencies, and community corrections/halfway houses. ACA members bring a broad base of expertise that no other organization in the world can offer to the field.

For more than 130 years, ACA has been the driving force in establishing national and international correctional policies. ACA is recognized as a worldwide leader on correctional policy and standards. Our standards pertain to both adult and juvenile corrections, and include guidelines designed to assist states and other agencies in their efforts to implement correctional policy and procedure, which provide safe, secure, and humane facilities for staff and offenders alike.

In his remarks introducing the Prison Rape Reduction Act of 2003, Representative Wolf said "prison rape has nothing to do with being tough on crime; it has to do with making our communities safer, reducing recidivism, and controlling the spread of communicable diseases." I agree completely with Congressman Wolf. In fact, those are central tenants of the American Correctional Association, and we wholeheartedly support the efforts of Mr. Wolf and Mr. Scott as well as all others involved in their quest to reduce the incidence of prison rape.

The American Correctional Association supports the objectives of H.R. 1707. We believe that there should be a zero-tolerance standard for the incidence of prison rape. We believe that prison officials should make the prevention of prison rape a priority. We want to ensure that prison officials are accountable for what goes on within their institutions. We thank the bill's sponsors for incorporating into H.R. 1707 many changes that the corrections profession recommended to earlier versions

of the legislation. However, there remain a few provisions of H.R. 1707 about which we retain some reservations or which we would like to see clarified.

The strength of the American Correctional Association is in the fact that we are the only organization that accredits total correctional facility operations, including health care programs. We have in excess of 1,600 facilities and programs that are involved in the accreditation process, including prisons and jails, boot camps, correctional industries, electronic monitoring, training academies, and community-based programs, for both adults and juveniles. We currently have accredited facilities or programs in 46 of the 50 states. Florida, Louisiana, New York, Ohio and Tennessee have accredited 100% of their correctional programs. And, approximately 95 percent of the Federal Bureau of Prisons' facilities are also accredited.

Our profession has, within the past three years, adopted newer and more meaningful Performance-based Standards—standards that better define the value of what we do, how we do it, why we do it and how successful we are through outcome measures. It is through the implementation of these measures that ACA has positioned itself to more closely collaborate with all elements within the criminal justice system to address specific issues facing the correctional profession, including those we are here to discuss today in relationship to the Prison Rape Reduction Act of 2003.

ACA's Standards Committee, in January 2003, finalized the adoption of several specific standards that are intended to significantly impact sexual misconduct and prison rape. Working closely within and outside the corrections profession, the Standards Committee adopted standards:

- I. to revise the intake screening requirements for all offenders to specifically identify those who are vulnerable or have tendencies to act out with sexually aggressive behavior;
- II. to require that an investigation be conducted and documented whenever an assault or threat of assault is reported;
- III. to require that offenders identified with history of sexually assaultive behavior are assessed by mental health or other qualified professionals. Those with history of sexual assaultive behavior are identified, monitored and counseled; and,
- IV. to require that offenders at risk for victimization are identified, monitored and counseled.

H.R. 1707 would establish the National Prison Rape Reduction Commission, established to study prison rape, report its findings to Congress and propose national standards for the prevention of prison rape to the Attorney General. However, there is no guarantee that those, including the ACA, who have unique expertise and experience in the development and implementation of standards for correctional programs will be consulted in the course of the Commission's work. *We would like to see a requirement that the National Prison Rape Reduction Commission consult entities involved in accreditation in the development of national standards for the reduction of prison rape.*

H.R. 1707 calls for states to seek reaccreditation every two years. However, ACA's current accreditation program has established a three-year cycle for the accreditation of correctional programs and we have found this time frame to be cost-effective and to provide adequate feedback relating to the state of operations within correctional facilities and programs. We believe that requiring states to seek accreditation every two years would result in a substantial increase in the costs associated with accreditation. *Therefore, we recommend that the accreditation of correctional programs under any National Prison Rape Reduction Commission standard occur every three years.*

Openness and accountability are important qualities in the administration of correctional systems. In fact, in ACA's accreditation process, which I discussed, we actively seek the input of those both inside and outside of the profession. We hold public hearings and we invite diverse groups representing a wide variety of interests to provide comments on our proposed standards. We want to ensure that the public has confidence that corrections departments are doing their job to the best of their abilities and that departments of corrections conform to the highest guidelines of our profession.

H.R. 1707 creates a Review Panel on Prison Rape to hear from correctional administrators whose departments are experiencing high rates of prison rape. The goals of the panel are no different from those of the ACA accreditation process—to ensure that corrections is open and accountable for the implementation of standards to prevent prison rape. The legislation establishes that the panel consists of three individuals with knowledge or expertise of the issues to be studied by the

panel. However, the legislation provides little guidance for this panel. We believe that this panel should be structured in a way to ensure that the panel promotes a dialogue which allows for a true understanding of the incidence of prison rape and which aids in the study determining the true impact of prison rape.

We recommend that a majority of the members of the Review Panel on Prison Rape be drawn from the law enforcement community and have expertise in the operation of correctional facilities. This would help to ensure that the panel does not promote confrontation but rather builds a dialogue allowing for a true understanding of the problems those testifying face.

H.R. 1707 calls for a study of the incidence of prison rape; however, it overlooks important factors that need to be taken into account in the development and implementation of the study. First, the legislation, as drafted, does not adequately identify what constitutes rape in a correctional facility. Issues surrounding consensual sex are not addressed, and further defining what is meant by prison rape is necessary. Secondly, the legislation does not specify whether prison rape would include staff-on-inmate sexual assault. While there is no such thing as consensual sex between correctional employees and inmates, incidents of staff and inmate sex constitutes a crime in nearly every jurisdiction. Finally, the legislation places a great emphasis on prisoner surveys for determining the incidence of prison rape. However, in all surveys, not just those on issues as complex as prison rape, individuals tend to over-report the incidence. *Thus, we recommend that the Department of Justice, in the development of a study relating to the incidence of prison rape, consult correctional administrators, prosecutors, victim advocates, former inmates and others with direct institutional knowledge in the development of the study.*

As you well know, state and local correctional agencies across the country are grappling with shrinking budgets and an expanding mandate. In this environment, the efforts of the supporters of the bill to reward correctional administrators for their efforts in meeting the requirements of this bill are commendable. We appreciate the extent to which the sponsors of H.R. 1707 have gone to ensure that this bill does not place unfunded mandates upon the states. Specifically, we appreciate the inclusion of language in H.R. 1707 preventing the adoption of measures that would impose "significant additional costs compared to the costs presently expended by Federal, State, and local prison authorities." However, we believe that this term needs to be further defined. *Thus, we recommend that the legislation be revised to define what, if any, further costs the implementation of national standards can place upon states and localities without providing federal funding for the implementation of such standards.*

Furthermore, we have reservations relating to the manner in which funding will be distributed to states under this legislation and reservations relating to the designation of programs from which funding for the implementation of this legislation will be drawn. Currently, H.R. 1707 provides for an increase in federal grant funding to jurisdictions represented at hearings convened by the Review Panel on Prison Rape. The legislation calls for these jurisdictions to be selected from among those included in a random sample of jurisdictions. Thus, those jurisdictions that are not a part of the random sample used to determine the incidence of prison rape are ineligible for funding under this provision of the legislation. In effect, this approach effectively rewards those jurisdictions that appear to have a high incidence of prison rape while reducing the funding available for those jurisdictions that were not part of the random sample.

To simplify this concept, let's assume that all fifty states are in compliance with the provisions of this legislation. Under the provisions of H.R.1707, ten states are chosen at random to participate in the sample. This means that forty states are not chosen. Under the legislation, the ten states chosen may be eligible for a ten percent increase in funding from certain "formula grant programs." Does this mean that the forty states not chosen at random are not eligible for an increase and could actually see decreased federal assistance?

Furthermore, funding for the implementation of H.R. 1707 is to come from the existing universe of "formula grant programs," most which are completely beyond the scope of correctional administrators' authority. In addition, relatively few current DoJ grant programs are designed to provide aid exclusively to corrections. Thus, other elements of state and local law enforcement could see reduced funding as a result of this legislation. I must ask whether funding from victim's assistance programs, community policing or drug treatment programs should be used to fund the implementation of this act. Even more alarming is that as the legislation is currently written, the term "formula grant programs" goes beyond DoJ programs that impact law enforcement and corrections. Given that the \$1 billion minimum included in the legislation, it is likely that you would have to go outside of DoJ programs. Thus, the Attorney General could identify highway funds, education funds,

HUD funds—in theory, any federal formula grant program, could be tapped into under the provisions of this legislation.

Thus, we recommend that the reward structure for the implementation of H.R. 1707 be restructured in a manner that ensures that states do not in any manner see a reduction in funding from any formula grant program as a result of this legislation. Furthermore, the funding mechanism of this legislation should be restructured to ensure that the funding of the Prison Rape Reduction Act does not impact federal programs of which corrections is not the primary beneficiary.

States across the nation are experiencing extraordinary fiscal crises that are prompting governors and legislatures to recommend dramatic cuts to all areas of state government. Correctional departments have not been immune to these cuts, and, in fact, have been among the hardest hit. While corrections appreciates the attention that the issue of prison rape has received from the United States Congress, we can not help but draw your attention to the larger issues currently facing our profession. *Thus, the American Correctional Association joins the Council of State Government and the Association of State Correctional Administrators in recommending that this legislation be adapted to address state and local government officials' acute need for immediate, targeted, peer-to-peer assistance that would assist in the management of corrections in a cost-effective manner without impacting the safety of correctional employees, inmates, or the community.*

The primary mission of correctional departments across this country is to protect the public. Our mission also includes assisting in the prevention and control of delinquency and crime. Prison rape is a crime and we will continue to do our duty to prevent it.

Mr. Wolf was absolutely correct when he said that the issue of prison rape is not about being tough on crime. Prison rape is an issue centered upon the human rights and the human dignity of those within our nation's prisons and jails. Yet, if we are truly concerned with the human rights and human dignity of offenders, we must, as a society, ensure that all citizens receive access to health care, access to education, and access to a living wage. This investment will go much farther to making our communities safer, to reducing recidivism, and to controlling the spread of communicable diseases than anything else that we can do.

Prison rape is caused by larger, societal problems. It is a symptom of a disease and not the disease itself. And, ultimately, the prevention of criminal and delinquent behavior depends on the will of the individual and the constructive qualities of society and its basic entities: family, community, school, religion, and government. Without a significant investment in research and in the development of our communities, we will not be successful in achieving the admirable goals of making our communities safer, reducing recidivism and controlling the spread of communicable disease both inside and beyond our correctional systems.

The corrections profession applauds the leadership of Representatives Wolf and Scott on this issue. And, we feel that if implemented properly, this legislation will have an impact on prison rape. We hope that it will be cost effective. We hope that it will make are communities safer. We hope that it will reduce recidivism. And we hope that it will reduce the spread of communicable disease. ACA looks forward to working with you on this noble pursuit. And, again, I wish to thank you all for inviting me here today.

Mr. COBLE. Let's get to Mr. Hall, and then we can come back. Since just Bobby and I are here, we probably will have two rounds of questioning.

Mr. Hall.

STATEMENT OF FRANK A. HALL, DIRECTOR, THE EAGLE GROUP

Mr. HALL. Mr. Chairman, my name is Frank Hall. I am currently a consultant in Washington, D.C. I spent 35 years in the corrections business, starting my career, Mr. Chairman, in your home State of North Carolina, where I spent 6 years and learned a great deal from a lot of very bright and capable people who were very committed to developing a humane and effective corrections department.

I have had an opportunity to run three State correctional systems over the last 35 years, two large local corrections systems, as

well as a juvenile justice system in the State of New York. I am gratified by the comments of my colleagues, Mr. Wall and Mr. Kehoe, who seem to be very supportive of the intent of this legislation and seem to be very supportive of the direction in which we're trying to move. I commend the leadership of Representative Wolf and Representative Scott. I think they've done a remarkable job focusing on an issue that I think too often we have avoided and tends to sort of be in the recesses of our institutions.

We don't tend to talk about this issue. There has been almost a reluctance to talk about this issue throughout our history. But I think it's a major problem. It is not only a problem of public safety and safety in our institutions for both staff and inmates, but I think it is, very frankly, a public safety issue and a public health issue.

But I'm gratified by the comments, because I think these two people represent what is best in the corrections profession. There are a lot of very fine people working in this business that would like to solve this problem and would like to be able to come before this Committee or any other Committee in Congress and say this problem has been solved, thanks to your efforts and thanks to your help.

I think there are several concerns that have been raised about the direction of the bill, most of which seem to address issues of funding and resource allocation, compliance issues. To me, these are relatively solvable problems. Congress deals with these problems almost every day, and I'm confident that these problems can be resolved.

But the reality of it is, you know, this problem of prison rape affects people today. Probably in the last 20 years, a million prisoners have been raped in the United States of America. I think that's unacceptable to all of us, not just in the corrections business but for every Member of Congress and every person in the United States.

Unfortunately, in spite of efforts to accredit our facilities in this country, a still relatively small percentage of correctional institutions are accredited. The fact of it is we operate thousands of jails in this country, police lockups, and there are 630,000 people alone in the local jail system. Just 2 years ago, if you counted the number of admissions and discharges from the local jails and the prisons, we're talking about 10 million people. Many people in the jail system haven't even been found guilty of a crime. So it's a major issue and it affects people, it affects the public health.

I think it requires Federal action for a very simple reason: we haven't done it at the State level. I've been at the State and local level all my life, but we haven't yet solved this problem. In spite of mass resources and money and support, we still haven't resolved this issue. In spite of much progress in the corrections business, we still haven't resolved this issue.

The other reality is—and I think it's one we have to face—most prison staff are not adequately trained to prevent, to report, to treat and to deal with the issue. This bill provides some training, it provides opportunities for people to get resources to help deal with some of these issues. So we're not where we need to be, Mr. Chairman and Members of the Committee.

The bill doesn't attempt to solve all the world's problems, but it does attempt to do some very basic things. It sets up a program to gather the data, which we desperately need—we have so little real data that it's an embarrassment that we don't know more about the issue, that we don't have better data on this issue—and Allen Beck is here from the Bureau of Justice Statistics, who I think is probably one of the best in the business. I'm sure his people, with support from Congress, can find out and get us much more information than we currently have.

The other program would provide technical assistance and a clearinghouse to help resolve some of these issues, and then there's a program that the Attorney General would have which would enable him to make grants up to a million dollars to States and localities who are trying to grapple with the problem.

So there is an honest effort to put some resources in this program to draw attention to it, to establish standards over a period of 2 years, and then I think recognizing that we have a long ways to go, Mr. Chairman.

I think what we've also said is that it's not that complicated. It's true that we have to work out some issues around formula grants; it's true we have to work out some issues around compliance. But basically, what the act is requiring is really relatively simple, and as a former corrections administrator in several States, and in local governments, as well as in the juvenile system, I would not find it impossible to carry this out, even with existing budget constraints within which we all operate today. I mean, there's always been a budget crisis as long as I've been in corrections, Mr. Chairman. It didn't take this recession or this economic downturn that we're having to create an economic crisis in the correctional system.

We're only asking that correctional administrators cooperate with the surveys and other efforts to measure accurately the prevalence of prison rape in our existing institutions, and be prepared to explain, in a public forum, if an institution or system is far above the established norm. It's an issue of accountability. What gets measured, Mr. Chairman, is what gets done.

After years of hearings, discussion and debate, where all the fine people you see here today, and others, would have a chance to agree on a set of standards, and a set of standards that do not require substantial new State and local resources. And while we may debate the means of ensuring compliance, it is imperative that we, at a minimum, take these three steps.

If the Congress decides to act, then all of you will have the satisfaction of knowing your actions have enabled all of us to taken a historical step forward. As Members of this Committee can readily see, the Prison Rape Reduction Act is comprehensive and designed to shed light on dark, violent places. However, even more importantly, it provides prison and jail staffs with ideas, resources and performance accountability, all urgently needed if we are to lower the level of violence that exists today.

Passage of this legislation would be an historic step in establishing our commitment to real public safety. In this great country, we sentence people to prison as punishment and to protect our fellow citizens. We do not, and must no longer, sentence them to be raped, murdered or exposed to dangerous diseases. Those of us who

have worked in our correctional institutions, Mr. Chairman and Members of this Committee, we applaud your efforts, your concern, and your humanity.

Thank you.

[The prepared statement of Mr. Hall follows:]

PREPARED STATEMENT OF FRANK A. HALL

Mr. Chairman, Members of the Sub-committee on Crime, Terrorism and Homeland Security, it is an honor and a privilege to appear before you today. I am here to express my gratitude for your leadership in reducing violence in our correctional institutions and to express my support for the Prison Rape Reduction Act. I am also honored to be here with two of my colleagues, Reggie Wilkinson and Chuck Kehoe. I have known these two professionals for many years and they represent the best of the fine women and men working in our jails, prisons, and juvenile facilities throughout the country.

I have worked in the correction profession for more than thirty-five years in a broad range of positions. I have served as director, commissioner, or chief executive officer of the State corrections systems of Massachusetts, Maryland, and Oregon, the jail systems of Philadelphia and Santa Clara County, California and the New York juvenile justice system. To me, prison rape is much more than an academic issue. Prison rape impacts on human beings and on every jail, prison, and juvenile facility in America. It is an issue of violence and public health.

At the end of this century, over two million persons were incarcerated in our Federal and State prisons and more than 630 thousand were locked up in local jails. In 1999, there were more than ten million admissions to and discharges from these institutions. Although the research is limited-another part of the problem which would be remedied by the legislation- experts have conservatively estimated that at least 13 percent of inmates in the United States have been sexually assaulted while under our supervision. Many of these individuals have suffered repeated assaults. The total number inmates who have been sexually assaulted in the past twenty years could easily exceed one million.

America's jails and prisons house more mentally ill individuals than all the Nation's psychiatric hospitals combined and experienced correctional professionals know that inmates with mental illness are at increased risk of sexual assault. Young first offenders are also vulnerable and those placed in adult rather than juvenile facilities are five times more likely to be assaulted.

HIV and AIDS have become an increasingly major health problem in corrections. More than 25,000 inmates in Federal and State prisons are infected. In 2001, more than six percent of all deaths in these institutions were attributable to these life-threatening illnesses. Infection rates for other sexually transmitted diseases, tuberculosis, and hepatitis B and C are also far greater for prisoners than the American population as a whole. Prison rape is often a death sentence for the victim.

Prison rape is nothing less than brutalizing violence and an act of rape or threat of rape in an institution increases the level of homicide and other violence against inmates and staff. Victims suffer severe physical and psychological effects that hinder their ability to re-integrate into the community and maintain stable employment after release. The result is higher recidivism, more homeless or at best individuals requiring some form of government assistance.

Unfortunately, most prison and jail staff are not adequately trained or prepared to prevent, report, or treat inmate sexual assaults. As a result, prison rape often goes unreported and victims often receive inadequate treatment if they receive treatment at all.

The Prison Rape Reduction Act is an historic bi-partisan effort to mobilize our efforts to combat a problem that, as we have seen, impacts far beyond the walls of the country's jails and prisons. The law would establish a zero tolerance of rape in United States prisons and would make its prevention a top priority. National standards for the detection, prevention, reduction, and punishment will be established. Long needed data on the incidence of prison rape will become available which will improve the management and administration of our correctional institutions. It will increase the accountability of prison officials who fail to detect, prevent, reduce, and punish rape and increase the visibility of officials who are innovative and effective. The proposed legislation is designed to help jurisdictions that seek to create a safer environment.

The Prison Rape Reduction Act establishes three programs in the Department of Justice-the Statistics Program, the Prevention and Prosecution Program, and the Grant Program.

The first of these, the Statistics Program, would conduct annual studies of a significant sample of Federal, State, and county jails and prisons on the incidence and prevalence of rape. The program would then conduct an annual review of the performance of these systems where the incidence of rape greatly exceeds the national average.

The Prevention and Prosecution Program will serve as a clearinghouse for the provision of information and assistance to those authorities responsible for the prevention, investigation, and punishment of rape. This program would also provide training and assistance to Federal, State, and local prison officials.

The third and last leg of this tripod would be the Grant Program, which authorizes the Attorney General to make annual grants (up to \$40 million each year) to State, and local programs that enhance the prevention and punishment of prison rape.

In addition to the programs described above, the new legislation would establish a National Prison Rape Reduction Commission which would conduct comprehensive hearing and examine all penalogical, economic, physical, mental, medical and social issues related to prison rape in America. At the conclusion of its review the Commission will issue a comprehensive report on the subject, including a recommended set of national standards to reduce and eliminate prison rape.

The standards will address practices for the investigation and elimination of prison rape including the training of correctional officers; sexually transmitted disease prevention; identifying, protecting, screening, isolating, and punishing vulnerable and potentially offending inmates; and other related issues. The Commission will be required to limit its proposals to those that do not impose substantial additional costs on States and local governments. The Commission's recommended national standards will be independently reviewed by the Attorney General who may modify them before publishing them for notice and comment under the Administrative Procedure Act.

Once the standards become final, they will be immediately applicable to the Federal Bureau of Prisons. States then may adopt the standards by statute and those that do will receive increased funds for two years from certain Federal grant programs. States will continue to receive increased funds thereafter if they receive certification from an accreditation agency that they are in compliance with the standards.

The Act further requires that all prison accreditation organizations to examine prison rape prevention practices as a critical component of their accreditation reviews including, when and where adopted, the national standards promulgated pursuant to the Act. Failure to do so would make such organization ineligible for the receipt of any Federal funds.

The problem today, Mr. Chairman and Members of this Committee, is that our focus has been on building institutions not on what goes on inside. As administrators we are held accountable for the visible-escapes and riots. These are the issues that result in blue ribbon commissions, legislative hearings, and the firing of wardens and commissioners and all too often line staff who shoulder the daily burden of keeping our facilities safe. The legislation before this committee requires a different level of accountability and it will change the reality for those living and working in the system. As the old adage states: "What gets measured, get done."

Ladies and Gentlemen of this committee, we are not asking too much of my corrections colleagues, we are only asking them to take these three modest actions:

- Cooperate with the surveys and other efforts to measure accurately the prevalence of prison rape in our existing institutions.
- Be prepared to explain in a public forum if an institution or system is far above the established norm.
- And after years of hearings, discussion, and debate, agree to set of standards that do not require substantial new State and local resources.

While we may debate the means of ensuring compliance, it is imperative that we, at a minimum, take these three steps. If the Congress decides to act, then all of you will have the satisfaction of knowing your actions have enabled all of us to take an historical step forward.

As members of this committee can readily see, the Prison Rape Reduction Act is comprehensive and designed to shed light on dark violent places. However, even more importantly it provides prison and jail staffs with ideas, resources, and performance accountability-all urgently needed if we to lower the level of violence that exists today. Passage of this legislation would be an historic step in establishing our commitment to real public safety. In this great country we sentence people to prison

as punishment and to protect our fellow citizens. We do not and must no longer sentence them to be raped, murdered, or exposed to dangerous disease.

Those of us who have worked in our correctional institutions applaud your concern and your humanity.

Thank You.

Mr. COBLE. Thank you, Mr. Hall, and I thank the panelists. As I said, Mr. Scott and I are the only ones here and we'll have two rounds of questioning.

Mr. Hall, I'm sure that probably one of the reasons why there is very limited statistics available is probably fear of retribution, I would suspect—Is that correct, that being one reason?

Mr. HALL. I think that's one of the reasons, Mr. Chairman, yes. I think the other is that—and this almost goes—it is difficult to articulate, but I think there's been a reluctance on the part of all of us in the business to really talk about this issue and be frank about it.

Mr. COBLE. Yeah.

Mr. HALL. I think that's part of the problem also.

Mr. COBLE. In your testimony you indicate that most prison and jail staff are inadequately trained or prepared to prevent, treat or report. What sort of training or preparation would you suggest?

Mr. HALL. Mr. Chairman, I think you made a comment earlier about the Federal Bureau of Prisons. I think the Federal Bureau has provided a lot of leadership in this area. I think, if you look at the Federal regulations and policies, they very specifically deal with this issue. That is not true in many of the States; it's not true in some of the juvenile systems in this country; and it's certainly not true in many of the local jails.

I think the training that would be provided under this is a relatively small grant, only five million dollars to the National Institute of Corrections. It could go a long way, since it's practically increasing the National Institute of Corrections' budget by 50 percent. So it could go a long ways to training staff, developing protocols—you have to have a protocol. In a corrections system, you have to have policy. But in training people in the policy, then giving them real tools to actually do the work that has to be done and the ability to investigate these things and protect the people that report. Because it's dangerous to report, Mr. Chairman, very dangerous. No one wants to report being raped if they're going to get killed within 24 hours after making the report.

Mr. COBLE. Miss Henke, your testimony indicates that there could be as many as 20 Federal formula grant programs at the Office of Justice Programs affected by the increases/reductions under this legislation.

What criteria will be used to choose which programs are affected?

Ms. HENKE. Sir, the underlying legislation specifically says programs that are related to the failure to abate prison rape. That is the guidance that would be provided in the legislation.

Specific criteria that would be used by the Attorney General to select the programs within OJP, others within the Department of Justice, or other programs throughout the Administration, is undetermined at this time.

Mr. COBLE. Mr. Kehoe, what are the benefits—Let me put a two part question to you.

What are the benefits to a State or institution of accreditation, (a), and (b), why do some States or institutions choose not to be accredited?

Mr. KEHOE. Mr. Chairman, the benefits of accreditation are that it provides a State and a facility a program with an outside independent assessment of that facility's strengths and weaknesses. It also helps to measure their compliance with attainable goals, and it implements in the implementation requirement for state-of-the-art policies to be achieved through the accreditation process.

In some cases, it has actually aided in the defense in lawsuits. Federal courts have sometimes lifted their involvement with States because States have come into compliance with standards and accreditation. It also raises staff morale and professionalism because of the standards that specifically address training and qualifications.

I would say probably that the most important thing is that it helps you develop a road map for daily operations. That's the thing that we see most often, that you have a consistent way of managing these facilities from day to day.

I would say probably that, more often than not, what causes States, I think you asked, not to become involved—

Mr. COBLE. Yes.

Mr. KEHOE.—is probably a lack of understanding and knowledge, and certainly the cost factor for some States is, to some extent, a deterrent. They just simply don't know whether they have the money and the resources to do that. But I would say those would be the two major issues.

Mr. COBLE. I have a question for Mr. Wall, but I will wait until the second round. Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

I think what we have heard is general support for the legislation, if we can work out the details. So let me ask you all a couple of questions.

Mr. Kehoe, what portion of prisons today are, in fact, accredited?

Mr. KEHOE. About 10 percent of the adult corrections in the country are—actually, it's more than that. In the U.S., about 30 percent of adult prisons and jails are accredited, and about 10 percent of the juvenile programs are accredited. There's about 1,600 facilities in numbers.

Mr. SCOTT. Both you and Mr. Wall have suggested that we make sure that we contact those who do the accreditation. Does anybody else, other than ACA, do accreditations?

Mr. KEHOE. Yes. The National Commission on Correctional Health Care does accreditation specific to health care, but doesn't go into the operations and beyond the health care.

Mr. SCOTT. So if we wanted to contact a group that did accreditations, it would be ACA?

Mr. KEHOE. Yes.

Mr. SCOTT. I don't remember which one it was, but somebody mentioned the composition of the panel. Other than corrections officials, who else ought to be on the panel?

Mr. KEHOE. Certainly I would think, Mr. Scott, people with law enforcement background, who have some experience in investigative skills, who have experience in dealing with sexual assaults in

a free society would also bring a lot of strength to that composition as well.

Mr. SCOTT. Does somebody else want to respond to either of those questions?

Mr. HALL. Mr. Scott, I would also urge that, if such a panel be appointed, that it also include some folks that represent the people that have come through the system. You know, we haven't heard from those folks today. But those stories are compelling. I know these people personally, many of them, and they're absolutely true. We have to have people on a panel like that who represent some other points of view.

I would like to think that those of us in corrections are smart and sensitive and thoughtful about these issues, but it's important to have other people there with us I think.

Mr. SCOTT. You're talking about a broad cross-section. The problems we have with that is the way we have them appointed, three by this person, two by that person, one by this person, so that you don't get to appoint a group. You have to appoint one and that's it. Then you look and see what you've got. That's how we generally do it. We might have to tinker with that to make sure that, when all is said and done, we have a cross-section of the various disciplines.

Mr. Wall?

Mr. WALL. Yes, Representative Scott, if I may. There are really three components here, as I understand it. One is the BJS component, the second is this review panel to take the BJS statistics and help to present a profile of who the victims are, who the perpetrators are, and what the context is. The third is the commission that will promulgate standards for States to adhere to.

I had suggested that, with regard to the first prong, the BJS study, that there be an advisory group that would be broadly representative, that would help with definitional questions and identifying the appropriate ways to gather information. That would absolutely include victims' advocates as well as former inmates, as well as corrections professionals, law enforcement personnel and prosecutors.

Mr. SCOTT. You mentioned definitional questions. Several have indicated a question about the definition of rape, including whether or not staff-in-inmate rapes would be included.

Are there places that have already dealt with that question that we could find a definition?

Mr. HALL. Mr. Chairman, Mr. Scott, I would suggest, even if you look at the state of current law on sexual assaults, it pretty well covers it. When you're in a correctional facility, the mere threat of an assault in itself is a criminal act for all intents and purposes. When someone is threatened with rape or threatened with some sexual act, and if they don't cooperate they're going to be killed or maimed or whatever, I think the law pretty much covers most of these issues.

Ms. HENKE. Sir, just one more thing, if I may. Congress did provide \$13 million to the Office of Justice Programs in the fiscal year 2003 appropriations bill for the Bureau of Justice Statistics and the National Institute of Justice. Both of these entities, working collaboratively, are prepared to empanel a group of experts, practi-

tioners, researchers, et cetera, individuals from the field that can address these issues. So the Bureau of Justice Statistics and the National Institute of Justice can get a head start on identifying some of these issues.

Mr. WALL. And, Representative Scott, with regard to the issue of staff on inmate sexual assault, that is a crime, a violation of the criminal code in 48 of the 50 States at the present time. Consent is not a defense in those instances. The mere fact of sexual misconduct between a staff member and an inmate is defined as a felony.

Mr. SCOTT. Thank you.

Mr. COBLE. Thank you, Bobby.

Mr. Wall, I don't think this has been touched on. We talk frequently and consistently about the lack of statistical data. How important, Mr. Wall, is it to reducing the incidence of sexual assault to obtain accurate statistics?

Mr. WALL. I think that it is very important to obtain accurate statistics, and that's why, Chairman Coble, I have recommended that there be an advisory group put together to assist the Bureau of Justice Statistics in assembling that data and also that it draw on a variety of surveys.

Let me give you an example of one of the challenges that can be presented here. It is conceivable that a State which has good supervision, close supervision by staff, and good reporting mechanisms, could show up as having a high incidence of sexual assault on inmates, because in my experience over the years, if inmates have reason to believe that they will be believed and protected, they will report misconduct, whether it be by staff or other inmates. If inmates do not think they will be believed or protected, they will remain silent. That's why the issue of collecting data and collecting accurate data is going to be a very important and challenging piece.

Mr. HALL. Mr. Chairman, I certainly agree with what Mr. Wall has said. I think one of the reasons we've heard less about this issue over the years is because people have remained silent. I think many people who have been assaulted remain silent.

I think the interest of Congress and the interest of the Federal Government in this problem I think will change that silence. I think it will have a very positive impact.

Mr. COBLE. I hope so.

Miss Henke, pardon my raspy voice. I have already apologized to others. I know this sounds terrible.

Miss Henke, are the standards that have been adopted by the ACA also the standards that are required by the Federal correctional facilities?

Mr. HENKE. Sir, to my knowledge, the Federal Bureau of Prisons has had their own standards in place since about 1997. However, the Bureau of Prisons also works to adopt the standards identified and used by the ACA.

Mr. COBLE. Thank you.

Mr. Scott.

Mr. SCOTT. Thank you.

Mr. Wall, you indicated there may be some things we're overlooking. What were you referring to?

Mr. WALL. My concern is this, Representative Scott, that there is another emerging crisis in the corrections field that has to do with the fact that our systems continue to grow but that we are facing nearly unprecedented fiscal constraints.

In the late 1980's and 1990's, the philosophy really was to build more prisons and staff them up. We are now some 10-plus years, 10 to 15 years later from the beginning, from the onset of that philosophical approach, the coffers are exhausted, governors and legislators are not willing to spend additional capital monies, are not willing to continue to staff up and operate expensive correctional institutions, but our numbers have not abated. As a result, governors are forced to consider how to manage the population and whether the populations of correctional facilities can be allowed to continue to grow, notwithstanding the fiscal constraints. In virtually every jurisdiction, steps are underway and serious discussion is occurring about how to deal with that problem.

My point would be that this is an occasion where the States really could benefit from targeted, technical assistance, so that we don't make those decisions unwisely and in contravention of the public safety. I would argue, as Mr. Hall has, that just as sexual assault in prisons can be looked at as a threat to public safety, through public health and through the consequences of people behaving on the street who have been abused that way, we also, of course, care deeply about the public safety associated with releasing inmates who might otherwise be incarcerated and want to be sure that those decisions are made soundly and wisely. We would appreciate the Federal Government's assistance in providing us with the means to do that.

Mr. SCOTT. Thank you.

Several questions have been raised about the funding formula. Does anyone have any concern, or are we confident that there is common ground that we can solve this? Let me ask that of Miss Henke.

Ms. HENKE. Sir, it is the Department of Justice's hope that yes, there is common ground. In discussions with individuals at the table, as well as other supporters of the legislation, it is the Department's hope that this issue can be addressed and that common ground exists for us to build from.

Mr. SCOTT. Mr. Hall?

Mr. HALL. Mr. Scott, all the members of the coalition that support this legislation left their agenda at the door and are focused on this issue and this issue alone. I am relatively certain, as long as there is some form of compliance in the legislation, that some formula and some understanding can be worked out.

Mr. SCOTT. Mr. Wall and Mr. Kehoe, do you have any concern that we might not be able to find a common ground to get past the funding questions?

Mr. KEHOE. Mr. Scott, I think we are in agreement with the Department of Justice on what has been said so far. People working collectively toward a unified cause, with a goal in mind, can achieve anything. I think we would be supportive of that.

Our greatest concern is that we not end up in a situation where no good deed goes unpunished.

Mr. SCOTT. Thank you.

I guess a final question. A couple of people have used the phrase “integrity” in conjunction with the numbers that we get. What can we do to ensure—I think Mr. Wall kind of touched on this a little bit—that the numbers we get as a result of the surveys are accurate?

Mr. HALL. Mr. Scott, I think that with Mr. Beck’s involvement from the Bureau of Justice Statistics, the involvement of a lot of people that understand how to gather this data in a way that protects the people that give up the information, I’m convinced we can get the data. I mean, there are ways of doing these studies. I may be looking at people that have already been released, that are already off parole, that we have to look at some of those folks. But I think there’s ways of gathering this data without compromising it, and I’m convinced that can be done. I think people are smart enough to figure that one out.

Mr. SCOTT. Thank you.

Miss Henke?

Ms. HENKE. Sir, if I may, once again under the \$13 million that was provided in the BJS appropriations bill, the Bureau of Justice Statistics is prepared—we have worked over the past month, maybe 2 months, to develop a proposal that we have discussed with many individuals. What the Bureau of Justice Statistics is going to do is they’re going to pilot something they call the Audio Computer Assisted Self-Interviewing technique—it’s called the Audio CASI, is what we call it—to improve the reliability of numbers.

One of the things the expert statisticians at the Bureau of Justice Statistics have said is currently there are pretty much two ways to gather the numbers: you provide a survey and let them fill it out whenever they fill it out, and turn it in whenever they turn it in; or there is a personal interview.

Personal interviews often sometimes subdues what an individual will discuss. By using this audio computer system, one, it’s a more controlled environment, and two, it is not a person that you’re sitting there talking with. So the Bureau of Justice Statistics, at OJP, is going to be moving forward on that technique to pilot it relatively quickly.

Mr. HALL. Mr. Scott, one other comment.

I think, quite frankly, based on the studies that have been done, and the information that we currently have, it is still my opinion that we have underestimated the full extent of the problem.

Mr. COBLE. The gentleman’s time has expired.

Does the gentlelady from Texas have questions?

Ms. JACKSON LEE. Yes.

Mr. COBLE. The gentlelady is recognized for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, I ask unanimous consent to submit my opening statement into the record.

Mr. COBLE. Without objection.

[The prepared statement of Ms. Jackson Lee follows:]

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS

I would like to thank Chairman Coble and Ranking Member Scott for convening this very important hearing today to hear testimony and discuss H.R. 1707, the “Prison Rape Reduction Act of 2003.”

This important bill will help to bring an end to the deplorable rapes, molestations, and sexual assaults that occur in our prisons.

The negative impacts of prison rapes go beyond the physical trauma of the attack itself. The victims suffer psychological trauma, emotional scarring, shame, the stigma of being victimized, and the destruction of their dignity.

H.R. 1707 is a moderate bill that seeks to address the scourge of prison rapes. The bill does not infringe on state and local governments role in administering their correctional institutions. Likewise the bill does not impose mandates on correctional facilities without providing funding.

A critically important element of the bill is empowering the Department of Justice to conduct extensive research so that we can have a better understanding of the scope and character of the prison rape problem. The DOJ's research will also enable us to educate and train correctional facility officers to prevent prison rapes, to investigate and punish those responsible for the attacks, and to establish a funding system does not conflict with state funding initiatives.

By eliminating or significantly reducing prison rapes we will also benefit the general public. The psychological trauma of a prison rape has the potential to turn a person who was a non-violent offender when first incarcerated, into a violent offender when the person is released. Prison rape also increases the probability that prisoner rehabilitation efforts will be ineffective. Eliminating prison rapes will also reduce the incidence of infectious diseases like HIV/AIDS and hepatitis.

As the Chair of the Children's Caucus, I am particularly troubled by the impact that prison rapes have on minors who have been incarcerated. Imprisoned youths are five times more likely to be raped or sexually abused than incarcerated adults. Furthermore, the psychological trauma of a rape is far more serious to a child.

We must do everything in our power to eliminate prison rapes. It is far too common for prison officials and members of the public to ignore the crimes that occur in our prisons, and the problems facing our prisoners. To neglect our prisoners is a violation of the Constitution. The Supreme Court ruled in *Farmer v. Brennan*, that deliberate, indifference to prison rape violates the 8th Amendment's cruel and unusual punishment provisions.

Thank you Mr. Chairman and Mr. Ranking Member, and I look forward to hearing the testimony of our distinguished witnesses to learn about how to eliminate prison rapes.

Ms. JACKSON LEE. Let me applaud, first of all, the Chairman for holding this hearing, and applaud both the Ranking Member of this Subcommittee for his initiative in this legislation, along with Congressman Wolf.

Just for the record—and I know that these numbers have already been stated, but I guess it provides a chilling effect of this hearing to indicate that about two million inmates in the United States today—approximately two-thirds in Federal and State prisons and one-third in local jails—that of these two million inmates, it is conservatively estimated that one in ten has been raped, over or more than 200,000 inmates, and as I was listening to the testimony, there may be even more.

According to a 1996 study, 22 percent of prisoners in Nebraska have been either pressured or forced to engage in sexual activity against their will while incarcerated, and a 2001 report by the Human Rights Watch documented shockingly high rates of sexual abuse in U.S. prisons.

The interesting thing, of course, is that, because of the age of majority, we have youngsters as young as 17 in adult prisons who may be victimized in this category. I am told by my interaction, my sad interaction with victims of sexual abuse, that it is a tragically life-changing experience.

Then I would finally note that by increasing the transmission of HIV/AIDS and other sexually-transmitted diseases, tuberculosis and hepatitis B and C, all of which exist at a very high rate within U.S. prisons and jails, prison rape has serious health consequences.

So I know that all of you are facing a very high and critical question and this legislation is very important.

I would like to ask Miss Henke, right at this very moment, even without this legislation, knowing that this crisis or very severe problem exists, what are the Federal prisons doing, the Federal Bureau of Prisons doing, right as we speak to address this issue?

Ms. HENKE. Congresswoman, I can tell you a little bit about what they're doing, because I'm with the Office of Justice Programs and not with the Bureau of Prisons. But what I can tell you, as the Chairman stated early on, is that it has been noted that the Federal system has been working on this issue. The Bureau of Prisons has had policy in place since 1997, to my knowledge.

In addition to that, they work to adopt the same standards that ACA adopts for State and local prisons. So yes, the Federal system has had a policy and practice in place since at least 1997.

Ms. JACKSON LEE. Mr. Kehoe—and she is not with the Federal Bureau of Prisons, and I'm going to find out later why they're not present. But in any event, Mr. Kehoe, can you assess whether there's been any work that has been legitimate and substantial on this question, beyond obviously the movement of this legislation, which I think will be of great help, but what has been done and what has been noted about this crisis so that something could be done, even in the interim of passing this legislation?

Mr. KEHOE. Let me ask a question. Are you specifically speaking to the Bureau or globally, corrections-wise?

Ms. JACKSON LEE. Why don't you speak both specifically and generally. If you have more information generally, I'll accept that.

Mr. KEHOE. Okay. I don't have specific information about the Bureau, other than to say that 95 percent of the Bureau's programs are involved in our accreditation process. To that extent, there are standards that address issues of assault.

Most recently, in January of this year, the ACA standards committee passed four standards that specifically address the issue of sexual assault in institutions. They begin with the classification and intake process, to identify those perpetrators who may be the aggressor, and those who may be victims of possible sexual assault.

The second issue addresses the need for prompt investigation when a threat or an assault actually happens, and the culmination of that investigation.

The third and fourth standards really deal with the profile of an aggressive perpetrator, a sexually aggressive offender in prison, streamlining that person into the right program so that they get the appropriate level of custody as well as treatment.

The last standard deals with those that might be considered potential victims in institutions, identifying them and properly—having standards that properly classify them so they're not put in harm's way.

Ms. JACKSON LEE. So you have been using standards to assess whether or not there have been any fix in the particular institutions that you've been dealing with, standards, reporting, et cetera?

Mr. KEHOE. The standards that we have addressed specifically to sexual assault were just passed this past January, so there really hasn't been a period of time yet to collect any meaningful data of that.

Mr. HALL. Representative Lee, could I make one comment on that?

Ms. JACKSON LEE. Yes.

Mr. HALL. The accreditation process that was instituted by the American Correctional Association is a very positive process, and I think it's been of enormous help in corrections.

But as I pointed out earlier, the problem is there is just so few institutions that are accredited. When you get into the issues of local jails as well as juvenile correctional facilities, then you have a major problem area.

Unfortunately, as good as the process is, and even though these standards were adopted rather late in the process, the reality of it is most institutions don't go through an accreditation process. It's not like your school system or your colleges and universities. You can run your prison without accreditation. It's not like where if you have a college that doesn't get accredited, they'll probably end up closing their doors. That is certainly not true in this business.

Ms. JACKSON LEE. Mr. Chairman, is there a second round?

Mr. COBLE. No, just this.

Ms. JACKSON LEE. May I have an additional minute?

Mr. COBLE. One additional minute.

Ms. JACKSON LEE. I appreciate the response that you gave. I want to get the one representative State unfunded mandates, but I would like to know, one, what you're doing in your State, but more importantly, how this legislation will be helpful to you. I think I heard the funding issue, if you want to repeat that again, but how would it relate in terms of helping you be successful in the cure of this crisis and the very bad actions that are going on?

Mr. WALL. Certainly, Representative Jackson Lee, there are a number of ways in which this legislation would be of use to jurisdictions that are seeking to prevent the incidence of sexual assault in prison, to deal with the aftermath, and to prosecute as a result.

One is that the legislation includes a clearinghouse. As you know, corrections is, by and large, a State and local function, and that means we are sometimes in isolation from one another, a point I was making in regard to the issue of managing correctional populations, and there is a real benefit to having access to information about best practices that are occurring in other States. That's one way.

Another way in which I would be helpful is that there are demonstration programs provided in the legislation, and at least in my experience over the years, when those succeed, they have a real effect on the profession and become the touchstone for changes in practice across the field. So that's still another way.

Third—and I think this is very important—the fact is that I speak from my own 29 years in corrections, and I speak on behalf of all the directors of corrections. We do know that sexual assault occurs in our prisons; we abhor it. It is difficult for us to measure it, and we would appreciate some opportunity for the kind of analysis that this legislation affords, identifying the characteristics of likely perpetrators, of likely victims, and also the situations, context, locations in the institution, times of day, that these things take place, so that we have data and tools to use in attacking the problem.

Ms. JACKSON LEE. Thank you very much.

Thank you, Mr. Chairman.

Mr. COBLE. Thanks you, Miss Jackson Lee.

We thank the witnesses for your testimony. The Subcommittee very much appreciates your contribution.

This concludes the legislative hearing on H.R. 1707. Do you have one more thing, Bobby?

Mr. SCOTT. Mr. Chairman, I would like unanimous consent to enter into the record letters from the Prison Fellowship Ministry, signed by Charles Colson and Mark Early, and from the Justice Fellowship from a statement by Pat Nolan, President of Justice Fellowship.

Mr. COBLE. Without objection.

[The material referred to follows:]

Justice Fellowship

[Print](#) | [Back](#)**Letter to the House of Representatives**

"One of the best tests of whether we are truly a civilized people is the temper and mood of the public in regard to the treatment of crime and criminals."

Winston Churchill

Even though we've been convicted of crimes, we're still human..."

Inmate and prison rape victim
Donaldson Correctional Facility
Bessemer, AL

April 23, 2003

Dear House Member:

We are writing on behalf of Prison Fellowship Ministries (PFM) to urge your co-sponsorship and strong support of **H.R. 1707, the Prison Rape Reduction Act of 2003**. Prison rape is a tragic and prevalent reality in our prisons today, which has far-reaching judicial, economic and moral implications that demand a response.

Today, PFM is the largest prison outreach and criminal justice reform organization in the world. We have volunteers and active programs in all 50 states and in 98 countries around the world. More than 10 percent of the U.S. prison population, or 219,000 prisoners, participate in sessions led by PF-trained volunteers each month at 1324 different facilities—a number that represents more than 70 percent of total state and federal correctional facilities across the nation.

The pattern of sexual violence in prison and the prison rape crisis we are experiencing today are complex and pervasive problems. One inmate wrote a letter to Prison Fellowship in the fall of 2002 that describes sexual harassment and abuse as unavoidable:

"From the time you get up in the morning until the time you go to bed, someone is trying to fondle you, kiss you, molest you or even rape you. Many times these actions are accompanied by verbal threats and outright acts of violence."

This letter, and more than one hundred similar letters, came in response to an article published last fall in the prison newspaper *Inside Journal* about the Prison Rape Reduction Act of 2002. The letters recount and confirm the reality of sexual assault, rape and violence that define prison life in America today. They also plead for help in fighting against the widespread acceptance and indifference that allow it to persist.

One fundamental problem is the widely held cultural belief that prisoners deserve whatever happens to them in prison. As one inmate and prison rape victim describes:

"I wish I could put a stop to all of this but no one will listen and the people that do listen, they tell me that it's expected."

Additionally, prisoners also encounter indifference from prison officials. Jack Cowley, who served as a warden with the Oklahoma Correctional System for 20 years said:

"Oftentimes, officials will purposely turn their backs on unspeakable acts in order to maintain peace, allowing aggressive predators to have their way...they permit it to occur as a means of prison control."

The tragedy, of course, is that rape is a crime and an injustice whether it occurs inside or outside prison walls, and its effects are far-reaching. Sexual assault and violence in prison create countless unique problems and concerns. Consider just a few

<http://www.justicefellowship.org/JusticeFellowship/ChannelRoot/FeaturesGroup/IssuesInRe...> 8/7/2003

of the following truths about prison rape:

- It exacerbates the spread of HIV/AIDS
- It increases the likelihood that prisoners will commit crimes when they are released
- It increases violence in prisons
- It inflicts permanent psychological and emotional damage that inhibits an inmate's ability to reintegrate into society upon release

For Prison Fellowship, which ministers to prisoners, ex-prisoners, prisoner's families and victims of crime, it is unacceptable and unjustifiable that prison rape has persisted and increased as much as it has for the last several decades. Under this new legislation, the Department of Justice will have the ability to research and better understand the scope and character of the problem; to educate and train officers about how to prevent, investigate and punish prison rape; and it establishes a funding system that respects the principles of federalism while also establishing a zero-tolerance standard for sexual violence in prison.

Last Congress the Prison Rape Reduction Act garnered strong bi-partisan support in both houses of Congress. We strongly urge you to co-sponsor, support and approve this legislation.

Sincerely,

Charles W. Colson
Chairman, Prison Fellowship Ministries

Mark Earley
President, Prison Fellowship Ministries

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PREPARED STATEMENT OF PAT NOLAN

"The opposite of compassion is not hatred, it's indifference". These words were written by a prisoner who was severely beaten after refusing demands for sex from another inmate.

While often the subject of jokes on late-night TV, prison rape is no laughing matter. It has terrible consequences, not just for the inmates who are brutalized, but for our communities as well. The rate of HIV in prisons today is ten times higher than in the general population. Every rape in prison can turn a sentence for a non-violent crime into a death sentence.

Prison rape leads to other types of death, also. Rodney Hulin set a dumpster on fire in his neighborhood. Despite being only sixteen years old, he was sentenced to eight years in an adult prison where he was repeatedly beaten and raped. Despite his pleas for help, no one in authority intervened to help him; he was told to fend for himself. Depressed and unwilling to face the remainder of his sentence at the mercy of sexual predators, Rodney committed suicide. Similar suicides have occurred in jails and prisons across the United States.

Experts estimate that at least one in ten inmates is raped in prison. Because 95 percent of prisoners will eventually be released back into our communities, the horrors that occur inside prison have consequences for the rest of us, too.

Some who suffer through brutal rapes become predators themselves, both in prison and after their release, subjecting other innocent victims to the same degradation that they experienced. Or they vent their rage in other acts of violence, often racially motivated. One example is the tragic story of James Byrd, the African-American who was picked up by three white supremacists, beaten, chained to the back of their pickup truck and dragged for three miles to his death. One of his assailants was John William King, a burglar who had recently been released after serving a three year sentence in one of Texas' toughest prisons.

When John arrived at the prison, a group of white supremacists reportedly conspired with the guards to place John in the "black" section of the prison. At just 140 pounds, John was unable to defend himself against a group of African American prisoners who repeatedly gang-raped him. This was exactly what the white power gang wanted. Filled with hatred, John was easily recruited into their group for protection. Over the remainder of his sentence, they filled John's head full of hatred for blacks. When he was released, John King unleashed that pent-up hatred on James Byrd. The gang-rapes he endured in prison are no excuse for his murder of James Byrd, but they certainly help us understand what could lead him to hate so much.

As troubling as the incidence of rape is, equally disturbing is the attitude of many government officials who are indifferent to it. When asked about prison rape, Massachusetts Department of Correction spokesman Anthony Carnevale said, "Well, that's prison . . . I don't know what to tell you." In that offhand remark, he was expressing what many feel in their hearts but are loathe to admit—"they deserve it."

But they don't deserve it. Regardless of the crimes they have committed, no offender's sentence includes being raped while in the custody of government. By its very nature, imprisonment means a loss of control over the circumstances in which inmates live. They cannot choose their "neighbors" i.e. their cellmates, nor arm themselves, nor take other steps to protect themselves. Because the government has total control over where and how inmates live, it is their responsibility to make sure they aren't harmed while in custody.

That is why Justice Fellowship strongly supports HR 1707, the Prison Rape Reduction Act, which would establish standards for investigating and eliminating rape, and hold the states accountable if they fail to do so.

Winston Churchill said that the manner in which a society treats criminals "is one of the most unfailing tests of the civilisation of any country." It is important that Congress deal with the scandal of prison rape, for in doing so, you will lead our nation in meeting Churchill's test of a civilized society.

Mr. COBLE. Without objection, I would like to introduce into the record as well correspondence from Mr. Glenn Goord, the Commissioner, Department of Correctional Services for New York, and the Department of Public Safety Corrections from Louisiana, Mr. Richard Stalder, as secretary.

[The material referred to follows:]

April 25, 2003

Hon. F. James Sensenbrenner, Jr.
Chairman
Committee on Judiciary
U.S. House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Hon. Howard Coble
Chairman
Subcommittee on Crime, Terrorism
and Homeland Security
U.S. House of Representatives
207 Cannon House Office Building
Washington, DC 20515

Hon. John Conyers, Jr.
Ranking Member
Committee on Judiciary
U.S. House of Representatives
2142 Rayburn House Office Building
Washington, DC 20515

Hon. Bobby Scott
Ranking Member
Subcommittee on Crime, Terrorism
and Homeland Security
U.S. House of Representatives
B-336 Rayburn House Office Building
Washington, DC 20515

Dear Sirs:

I am writing to express New York State's support for the creation of a Commission to study the incidence and impact of prison rape in the United States such as proposed in section seven of HR 1707, the Prison Rape Reduction Act of 2003. However, we believe that it is imperative that the remainder of the legislation not be enacted until we have factual data and a complete understanding regarding this important issue.

By way of background, I would like to provide you with some information about the New York State Department of Correctional Services and its policies and practices regarding sexual assaults on inmates. Presently, the Department is the fourth largest state correctional system in the country, with an under-custody population of approximately 67,000 inmates who are housed in 70 different correctional facilities scattered throughout the state. This Department is also the only large correctional system in the country to have had each and every one of its institutions accredited by the American Correctional Association.

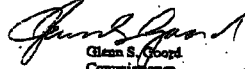
The Department has established a Sex Crimes Unit within its Inspector General's Office to investigate all instances of sexual relationships, whether alleged to have occurred between inmates or between inmates and staff. Among other things, the members of this unit receive a one-week training course from the State Police to include such things as victimology, offender typologies, medical evaluation of child victims, the use of forensic sciences in the investigation of sex offenses, deterrence, and legal perspectives.

New York certainly recognizes that sexual assault occurs in correctional systems and is taking steps to prevent, detect and prosecute such offenses; however, the extent of the problem across the country and the most effective measures to address this issue are not clear. Therefore, while the goal of HR 1707 is laudable, we respectfully recommend that the bill be limited to the

creation of a Commission to undertake a comprehensive study that will define the extent of the problem and make recommendations regarding what further steps may be necessary to address this issue. We further recommend that any newly mandated policies or procedures be considered after the Commission completes its study and makes appropriate recommendations.

If you have any questions or would like any further information regarding New York State's correctional system, please feel free to contact me.

Sincerely,



Glenn S. Good
Commissioner,
Department of Correctional Services

**DEPARTMENT OF
PUBLIC SAFETY AND CORRECTIONS**

M. J. "MIKE" FOSTER, JR., GOVERNOR



RICHARD L. STALDER, SECRETARY

April 22, 2003

RECEIVED

MAY 01 2003

The Honorable F. James Sensenbrenner, Jr.
Chairman, Judiciary Committee
Washington, DC 20515-4905

Committee on the Judiciary

Dear Chairman Sensenbrenner:

I am writing on behalf of the state corrections directors regarding HR 1707, *The Prisoner Rape Act of 2003*, which Congressman Frank Wolf recently introduced, with co-sponsors including Congressman Bobby Scott and others.

We appreciate very much the bipartisan concern among members in Congress about sexual assault in corrections facilities. Protecting staff and inmates alike, in addition to maintaining community safety, is the core of our mission.

We support most of the objectives of HR 1707: improving our understanding of prisoner rape; preventing these crimes from occurring in the future; and responding swiftly and effectively when inmates are sexually assaulted. Prisoner rape is relatively rare in jails and prisons, and we want to do everything possible to end it altogether.

We are grateful for your efforts to incorporate in HR 1707 many changes that the corrections community recommended to earlier versions of this bill. Nevertheless, some provisions in HR 1707 remain that would impede – rather than assist – corrections administrators' efforts to reduce sexual assault of inmates. We also are concerned that the bill, while allocating significant resources to combat prisoner rape, overlooks the most significant public safety issues in corrections currently facing state and local governments. For these reasons, we urge you to make four modifications to the legislation.

First, with respect to the study that the bill instructs the Bureau of Justice Statistics (BJS) to conduct, we recommend the legislation clarify several important issues: 1) what constitutes rape in a correctional facility; 2) who are among the potential perpetrators; and 3) how information regarding sexual assault in the facilities will be collected. Each of these issues is quite complex; sorting them out thoroughly in the legislation itself will be extremely difficult. Accordingly, with respect to each of these issues, the bill should instruct BJS to provide opportunities for corrections administrators, corrections staff, prosecutors, police chiefs, victim advocates, former inmates, and other experts to inform and guide the development of the study in order to ensure the research yields an accurate, and, to the extent possible, complete, assessment of prisoner rape.

P.O. Box 94304 • Capitol Station • Baton Rouge, Louisiana 70804-9304
(225) 343-6740

AN EQUAL OPPORTUNITY EMPLOYER

Page Two

Second, the description of the Review Panel on Prisoner Rape, which the bill both establishes and directs to convene annual hearings to inform the yearly BJS study, should be changed to ensure that the information it collects is practical and useful. The bill currently charges the panel with conducting public hearings involving administrators from those facilities that appear to have high rates of prisoner rape. This process seems almost certain to promote a confrontational, and highly emotional, environment, unlikely to yield any information of real value. A much more constructive process likely to inform the BJS study considerably would be to charge the panel with consulting (and, if necessary or appropriate, taking testimony from) officials from a random selection of the original random sample of facilities identified for the survey.

Third, the National Prison Rape Reduction Commission (which is distinct from the Panel that the bill also establishes) should be directed to consult accreditation organizations that currently have standards on sexual assault, and to review existing standards and standards under development before making its final report. Currently, HR 1707 instructs this Commission to develop accreditation standards without recognizing that the members and staff of accreditation organizations, such as the American Correctional Association and the Association of State Correctional Administrators, have already spent an extraordinary amount of time and resources preparing standards (some of which are still under development) that address issues relating to sexual assault and the conditions of a facility or system that facilitate sexual assault. The Commission should tap these resources and avoid inadvertently undermining important work done on this issue to date.

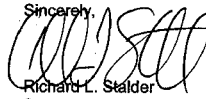
Fourth, and most important, we urge you to add to the legislation language recognizing that inmate safety is actually only one aspect of a much larger, more pressing, public safety issue that may quickly become a crisis in state and local governments across the country. Extraordinary fiscal problems are prompting governors and legislatures to recommend dramatic cuts to corrections budgets that can be achieved only by reducing the prison population, or, in some states, the rate of the system's growth. State officials must soon make high-stakes decisions about their prison population, yet are without the resources to ensure their decisions are informed ones. As a result, with budgetary pressures in the states as intense as they are, policymakers will need to make nearly blind decisions—Russian Roulette with major public safety implications.

If Congress is to pass any legislation that addresses the safety of inmates, the accountability of corrections administrators, and the efficiency and effectiveness of federal expenditures through existing programs (as HR 1707 does), it needs to address state and local government officials' acute need for immediate, targeted, peer-to-peer assistance that would assist them manage corrections costs effectively without compromising public safety. States and counties considering modifications to policies that would affect, post-sentencing, jail and prison admissions or offenders' length of stay should have the benefit of data, expertise, and information about what has worked in other jurisdictions across the country.

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Again, we appreciate the changes you have made to date regarding this legislation. We urge you to address the issues described above so that this bill will, in the end, help corrections administrators protect inmates, staff, and the public in general. Should you have any questions regarding our recommendations, please do not hesitate to contact Michael Thompson of the Council of State Governments (212-912-0128) or George Camp of the Association of State Correctional Administrators, or me directly.

Sincerely,



Richard L. Stalder
Secretary

RLS:ke

c: Mr. Thompson

Mr. COBLE. This concludes the legislative hearing on H.R. 1707, the "Prison Rape Reduction Act of 2003." The record will remain open for 1 week.

Thank you for your cooperation. The Subcommittee stands adjourned.

[Whereupon, at 5:21 p.m., the Subcommittee adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF MICHAEL J. HOROWITZ

Chairman Coble, Congressman Scott and Members of the Subcommittee:

I submit this statement in the hope that it will be of value to the Subcommittee in its consideration of H.R. 1707, the Wolf-Scott-Sessions-Kennedy Prison Rape Reduction Act of 2003. Having been involved from the start with the extraordinary right-left, bipartisan coalition engaged in the effort to enact it, I hope that the following comments will shed light on the context and character of the effort and the bill.

The first and most critical fact about the bill is its modest, moderate and federalism-friendly nature. The coalition supporting the bill, whose strong letter of support of April 18, 2003 is attached to this statement, has steadfastly resisted calls to deal with massive and epidemic prison rape through major federal spending initiatives, major federal spending mandates, significant amendments of existing laws or expansions of the right to bring lawsuits in the courts. The coalition is therefore pleased that H.R. 1707, which has the committed, indeed passionate support of such groups as the NAACP and Focus on the Family; La Raza and the Salvation Army; Prison Fellowship and Human Rights Watch; the Southern Baptist Convention and the Union of American Hebrew Congregations; the National Association of Evangelicals, the Presbyterian Church, U.S.A., the American Probation and Parole Association, Physicians for Human Rights, the Christian Coalition and Amnesty International, U.S.A. only calls for limited but strategic steps to be taken.

Insofar as penal systems are concerned, H.R. 1707 only calls for three simple reform steps—all of them highly moderate in light of the fact that:

- Between 10 and 15% of the nation's two million prisoners are now estimated to be victims of sexual assault each year and, when victimized, to be repetitively assaulted—a violent outcome that, by far, hits first-time offenders, juveniles and the mentally handicapped hardest of all.
- Today's systematic indifference to prison rape not only represents grievous and unacceptable penal and social policy; Congressional action is further in order because the Supreme Court's *Farmer v. Brennan* decision makes deliberate indifference to prison rape a direct violation of the 8th Amendment of the Constitution.

The three actions called for by H.R. 1707 are these:

- Penal systems are called upon to cooperate with annual Justice Department prison surveys of prison rape;
- Heads of prison systems whose incidence of prison rape is found by the Justice surveys to exceed the national norm by 30% or more are called upon to publicly explain and defend their prison rape abatement policies; and
- Prison systems are called upon to comply with rape abatement standards established after years of study by a National Commission and by the Attorney General, and after full notice and comment rulemaking—under circumstances where the standards cannot impose significant spending mandates.

H.R. 1707 seeks to enforce the three above reforms through limited adjustments in formula entitlements for federal grant programs whose purposes are most undermined by the failure to abate prison rape. I know that there has been discussion over this means of achieving compliance with H.R. 1707's three reforms, and believe that careful scrutiny of this approach will establish its moderate and non-intrusive character. Whatever one's views of H.R. 1707's grant formula adjustment approach,

however, it is fair to say that the coalition's singular determination is that jurisdictions should not be free to ignore the three reforms, or be unaffected if they do so.

Thus, the coalition's position may be summarized as follows:

- That meaningful mechanisms should be established to ensure that prison systems can be surveyed to determine the incidence of prison rape;
- That the heads of systems where the incidence of rape significantly exceeds national norms should publicly defend their rape abatement practices; and
- That prison systems should comply with carefully established, no-spending-mandate rape abatement practices.

As long as these three, limited objectives are achieved, Mr. Chairman, I believe that Congress will enact historic legislation that will be a credit to it, to our Constitution and to the decency of the American people.

LETTER FROM HAROLD W. CLARKE, WITH ATTACHMENTS

STATE OF NEBRASKA

DEPARTMENT OF CORRECTIONAL SERVICES
Harold W. Clarke
Director

May 5, 2003



Mike Johanns
Governor

Honorable Howard Coble, Chairman
Honorable Bobby Scott, Ranking Member
House Judiciary Committee Subcommittee on
Crime, Terrorism and Homeland Security
207 Cannon House Office Building
Washington, D.C. 20105

Dear Representatives Coble and Scott:

I am offering this letter for the congressional record as part of the House Judiciary Committee Subcommittee's considerations of H.R. 1707 – the "Prison Rape Reduction Act of 2003." As Director of the Department of Correctional Services in the State of Nebraska, I believe I have a perspective that could aid in the Subcommittee's deliberations. In 1994, Professor Cindy Struckman-Johnson conducted research relating to sexual assault in the Nebraska prison system, not 1996 as has been reported.

In late 1993, my staff received an initial inquiry from Cindy Struckman-Johnson, Ph.D., concerning the feasibility of a Ph.D. level survey of staff and inmates focusing on inmate sexual assaults. As required by Department policy, Dr. Struckman-Johnson submitted a formal written request to "conduct a study of the prison environment and sexual assault rates" in Nebraska facilities (Attachment A: Letter from Cindy Struckman-Johnson, Ph.D., dated January 4, 1994). I made the decision to proceed with the research subsequent to a staff review of her proposal. The survey was sent to 1,801 inmates and 714 staff in four correctional facilities in March and April 1994 (Attachment B: Inmate and Staff Survey Instruments).

The Department received a final summary of the study in January 1995 and a copy of Dr. Struckman-Johnson's paper in May 1995 (Attachments C and D: Summary of Study and Paper respectively). Of the 1,801 inmates surveyed, a total of 516 inmates returned usable responses. Of those 516, 104 inmates responded "yes" to the question, "Since the time you have been in a Nebraska prison, has anyone ever pressured or forced you to have sexual contact (touching of genitals, oral, anal, or vaginal sex) against your will?"

The following is a summary of the Department's major concerns or observations with the Struckman-Johnson study:

- Does the sample size of 28.7% represent sufficient numbers on which to base conclusions?
- All information was based on a "self-report" study. The study presented survey findings not verified facts.
- Inmates and staff may skew their responses. It is possible that some individuals gave false reports.

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Coble
Scott
May 5, 2003
Page 2

- The 20% sexual assault rate identified in the report and later reported nationally does not represent a "prison rape" rate. The 104 inmates who reported "pressured or forced sexual contact" stated that they were targets of actions, which ranged from only attempts at contact, to genital touching, to oral sex, and to anal or vaginal intercourse.
- The definition of sexual assault is debatable. Targeted inmates (104) were asked to report what tactics were used by the perpetrators to pressure or force sex. "Pressure" tactics included "verbal persuasion" which was involved in 38% of the cases. Another pressure tactic "withdrawal of love" was reported in 7% of the cases. "Forced" tactics included threat of harm (used in 64% of the cases), and intimidation by larger size and strength (used in 53% of the cases).
- Reported cases of anal, vaginal, and oral sex represented about 12% of the total.
- "Consensual" sexual activity was included in the overall numbers (26% of the target group identified themselves as bisexual and 2% said they were homosexual). Therefore, of the 104 inmates who reported that they were targets of actions, 29 were self-reported bisexuals or homosexuals.
- The data is based on an inmate's incarceration period, which includes multiple times in prison.
- 41% of the 104 inmates who indicated that they had been sexually assaulted were incarcerated for a sex offense.

Please know that our concerns with the Struckman-Johnson study should in no way diminish the seriousness of sexual assault of prison inmates. I agreed to the study because I felt Nebraska had nothing to hide, and that the Department could benefit from such research, and we have. However, I do feel that there is much in the study that is questionable and I wanted the opportunity to share some of those concerns with you.

Sincerely,


Harold W. Clarke
Director

HWC:srs

Attachments

cc: Lieutenant Governor David Heineman, State of Nebraska
Kristin Crawford, Policy Advisor, Governor's Policy Research Office



UNIVERSITY of
SOUTH DAKOTA
414 EAST CLARK STREET • VERMILLION SD 57069-2390

DEPARTMENT OF PSYCHOLOGY

January 4, 1994

Mr. Steven King
Department of Corrections
Lincoln, NE

Dear Mr. King:

I am an associate professor of psychology at the University of South Dakota who conducts research on sexual coercion. My research colleague Dr. Lila Rucker, Department of Criminal Justice, and Mr. Kurt Bumby, an associate of your facility, would like permission to conduct a study of the prison environment and sexual assault rates at a Lincoln prison facility. We would like to administer the survey in a facility which has at least 500 inmates, or, if possible, in two facilities to obtain a sample of 1,000 or more inmates.

I will briefly summarize our proposal. We would distribute a survey and informed consent sheet (see attached) to all inmates and staff in the facility. The consent form emphasizes that the survey is anonymous and voluntary. Only those who are interested are to participate. The survey can be completed in 20 minutes or less. Participants are provided a postage-paid return-addressed envelope to mail the survey to my department. We will cover costs of all materials and postage, and we could help with the initial distribution of the announcement and surveys to minimize the inconvenience to your staff.

The survey has three parts. The first is a "Demographic Sheet" for basic information, such as gender and age. Staff answer questions about type and length of service. Inmates answer questions about their crime and sentence.

Part two--"A survey of Life In Prison"--measures staff and inmate perceptions of the prison environment such as inmate-staff relations and access to activities. The measure is a standard instrument that has been used in several studies of prison climate. The third part--"A Survey of Sexual Experiences"--measures the incidence of sexual assault in the prison setting. Staff are asked their perceptions of assault activities. Prisoners are asked if they have ever been pressured or forced into sexual activity, and if so, to describe what happened and how it has affected them. They are directed not to name themselves or anyone associated with an incident. The questions are based upon my own published surveys of sexual assault of men in college settings. (See attached article in press for publication in Archives of Sexual Behavior.)

We are collecting information only for academic knowledge and research purposes. To date, there are less than ten published studies of the incidence of prison sexual assault in the U.S. To my knowledge, there are no published studies on the effects of sexual assault on prisoners. We believe this survey will provide essential information about the scope and nature of the problem. Eventually, the information may help prison administrators and researchers find solutions for prison sexual assault. Our goal is to publish the information in a professional journal. Your agency will have the right to approve the material that is published. You will have access to summaries of all research information collected. We intend to provide a summary of results to interested study participants and prison administrators within a few months of conducting the research.

We would be willing to modify the research procedures if it would increase the acceptability of the study. For example, although we much prefer to have both prisoners and staff perceptions, we could eliminate the staff participation to simplify the study.

The procedures for this study were submitted to the S.D. Department of Corrections last August (see attached letter.) They gave preliminary approval for the study, but they have reserved final consideration until this spring when problems related to last year's prison riot have been resolved. The study was approved by the USD Human Subjects Committee in September, 1993 (see attached protocol and approval form.) The Committee requires written approval from the head administrator of any facility that participates.

If you have any questions, please call me at 605-677-5295. I would be willing to travel to Lincoln to discuss the project with you. Thank you for considering our request.

Sincerely,

Cindy Struckman-Johnson

Cindy Struckman-Johnson, Ph.D.
Associate Professor, Psychology

**A STUDY OF INMATE AND STAFF VIEWS
OF LIFE IN NEBRASKA PRISONS**

Inmate Consent Form

You are invited to be in a study of what inmates and staff think about life in Nebraska prisons. This study is being done by Dr. Cindy Struckman-Johnson, Dr. Lila Rucker, professors from the University of South Dakota, and Mr. Kurt Bumby, a graduate student at the University of Nebraska at Lincoln.

The purpose of the study is to collect accurate information about prison life. If you decide to be in the study, the staff will give you a survey to complete in privacy. The survey is **COMPLETELY PRIVATE**. You do **NOT** put your name anywhere on it. When we write about the survey, we will make sure that no one can tell which answers are yours.

You will be asked questions about prison life, such as what the rules are, what activities are allowed, and how safe you feel here. In the last part, you will be asked about unwanted sexual contact in the prison and if this has ever happened to you.

The survey takes about 20 minutes to do. You will be given an addressed envelope to return the survey to the researchers so that no one from the prison will see your answers. Being in this study is **VOLUNTARY**. You do not have to do the survey if you don't want to. You will not be penalized if you don't do the survey.

There is some risk that if you do the study, you may expect that "things will be changed." It is important for you to understand that the study can only describe what happens in prison. There is no guarantee that changes will happen because of the study.

There is some risk that you may feel upset by answering questions about sexual assault. If you feel this way, contact researcher Cindy Struckman-Johnson at USD and she will discuss this with you. This contact will be kept private.

One benefit of the study is that the information will be published in a scientific report and will help others to understand prison life. The researchers will also make the results available to the prison staff and inmates.

Your voluntary agreement to be in this study is given by returning your completed survey to the researchers in the provided envelope. The surveys will be kept private in a locked file and will be used only for research purposes. Thank you in advance for your help.

Dr. Cindy Struckman-Johnson
Psychology Department
605-677-5242

Dr. Lila Rucker
Criminal Justice Department
605-677-5295

University of South Dakota, Vermillion SD 57069

INMATE DEMOGRAPHIC SHEET

Place a check mark by the correct choice.

1. Education: Grade school _____ GED _____
High School _____ College _____
2. Race: Caucasian-white _____ Native American _____
African American _____ Hispanic American _____
Other _____
3. Age: 15 - 20 yrs _____ 36 - 40 yrs _____
21 - 25 yrs _____ 41 - 45 yrs _____
26 - 30 yrs _____ 46 - 55 yrs _____
31 - 35 yrs _____ 56 - 65 yrs _____
66 yrs or more _____
4. Are you a man _____ or a woman _____?
5. Check any of the below offenses for which you have ever been convicted:

| | |
|--------------------------|---------------------------|
| Murder _____ | Larceny _____ |
| Assault _____ | Motor vehicle theft _____ |
| Robbery _____ | Arson _____ |
| Rape _____ | Possession _____ |
| Other sex offenses _____ | Trafficking _____ |
| Kidnaping _____ | Other drug _____ |
| Fraud _____ | Public disorder _____ |
| Burglary _____ | Weapons offenses _____ |
| | Other _____ |
6. The crime for which you are now incarcerated is:

| | |
|-----------------------|------------------------|
| Against persons _____ | Against property _____ |
|-----------------------|------------------------|
7. Length of your current prison sentence:

| | |
|---------------------|----------------------------|
| 0 mo. to 1 yr _____ | 21 - 30 yrs _____ |
| 2 - 5 yrs _____ | 31 - 40 yrs _____ |
| 6 - 10 yrs _____ | 40 - 50 yrs _____ |
| 11 - 15 yrs _____ | Over 50 yrs, life without, |
| 16 - 20 yrs _____ | or life _____ |
8. Which facility are you currently assigned to?
(Nebraska facility alternatives will be listed)
Length of time at this facility: _____

A SURVEY OF LIFE IN PRISON

INSTRUCTIONS: What goes on in prison differs from one facility to another. The rules are different. Inmates have more freedom, privacy, and activities in some prisons than in others. There is less violence in some facilities. At some places the staff are more supportive.

We are interested in life in this facility. We want to know what goes on here, what it is like to live and work here.

We particularly want to know what it is like to live in your particular housing unit (cell block, tier or dormitory).

We give you a statement about something that might happen in your housing unit. You are to indicate if that event never happens, seldom happens, often happens, or always happens on your unit. Here is an example:

The food here is tasty.

never seldom often always

On your answer sheet, circle the response that best describes how things are. Some choices will be easy. Others will not. Even if you have a hard time deciding, let us know what best describes what goes on here. Don't skip any questions.

Remember to answer the questions about what it is like on your cell block, tier, or dormitory.

1. Inmates know what will happen if they violate the rules.

never seldom often always

2. The guards tell inmates when they do well.

never seldom often always

3. There is at least one movie each week.

never seldom often always

4. An inmate is sexually attacked on this unit.

never seldom often always

5. Inmates spend several hours each day talking with friends.
never seldom often always
6. Inmates fight with other inmates.
never seldom often always
7. The guards ask inmates about their personal feelings.
never seldom often always
8. Inmates are with their friends at night.
never seldom often always
9. If an inmate tries a new hobby or art, the guards will encourage him.
never seldom often always
10. Inmates know the rules.
never seldom often always
11. Inmates are with more than three friends at a time.
never seldom often always
12. Someone's cell is robbed on this unit.
never seldom often always
13. This unit is quiet.
never seldom often always
14. Inmates feel free to go up and talk to other inmates even if they are strangers.
never seldom often always
15. Inmates stay in their cells if they want.
never seldom often always

16. Inmates receive visitors any time during the day.
never seldom often always
17. Prison officials help inmates with problems.
never seldom often always
18. An inmate obtains training if he wants.
never seldom often always
19. Weaker inmates are sexually attacked.
never seldom often always
20. Inmates read without being disturbed.
never seldom often always
21. Inmates care about one another.
never seldom often always
22. Inmates see their close inmate friends when they want to.
never seldom often always
23. A weaker inmate is physically attacked.
never seldom often always
24. Inmates can be alone without being disturbed.
never seldom often always
25. Inmates do not have to work if they do not want to.
never seldom often always
26. A person learns new skills here.
never seldom often always
27. Inmates have something to do every night.
never seldom often always

28. Inmates lift weights when they want to.
never seldom often always
29. Guards tease depressed inmates.
never seldom often always
30. Inmates rap with the guards.
never seldom often always
31. Each inmate can lift weights at least one hour each day.
never seldom often always
32. Inmates know what will get them written up by the guards.
never seldom often always
33. Inmates talk to one another about their feelings.
never seldom often always
34. Inmates keep busy by participating in sports.
never seldom often always
35. An inmate's cell is robbed.
never seldom often always
36. If an inmate lets other people know he does not want to be bothered, they will not bother him.
never seldom often always
37. Inmates know when the gym is open.
never seldom often always
38. Inmates let their friends know they care about them.
never seldom often always

39. Inmates are allowed to read when they want.
never seldom often always
40. Inmates know when they can take a shower.
never seldom often always
41. Inmates who do favors for their friends are liked.
never seldom often always
42. Prison programs teach inmates new skills.
never seldom often always
43. Inmates keep busy with their hobbies.
never seldom often always
44. Inmates know when the commissary is open.
never seldom often always
45. Prison programs help inmates make parole.
never seldom often always
46. Inmates stay up as late as they want.
never seldom often always
47. Inmates have at least one hour of uninterrupted time to themselves each night.
never seldom often always
48. Inmates listen to music when they want.
never seldom often always

A SURVEY OF SEXUAL EXPERIENCES

This is an anonymous survey. Do not put your name on this paper. Please answer each question by filling in the blank or marking the right response. This survey will take about 10 minutes or less.

1. Since the time you have been in a Nebraska prison, has anyone ever pressured or forced you to have sexual contact (touching of genitals, oral, anal, or vaginal sex) against your will?
 Yes ____ No ____ Not Sure ____
2. If yes, how many times has it happened?
 ____ Number of Times
3. If yes, how many different persons have done this to you?
 ____ Number of Persons
4. In the prison you are in now, have you heard about any times in which an inmate was pressured or forced to have sexual contact against their will?
 Yes ____ No ____
5. If yes, how many incidents have you heard about?
 ____ Number of Incidents
6. In the prison you are in now, about what percentage of inmates do you think have been pressured or forced to have sexual contact against their will? Circle your best guess.
 0% 1% 5% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%
7. In the prison you are in now, do you think that the prison system protects inmates from pressured or forced sexual contact? Circle one number.
 Definitely No 1 2 3 4 5 6 7 Definitely Yes
8. What do you think are some good ways to prevent sexual assault in prisons?

9. Do you consider yourself to be:

Heterosexual _____ Bisexual _____ Homosexual _____

If you have NEVER been pressured or forced to have sexual contact while in prison, you do not have to answer any more questions. Thank you for your help.

If you HAVE been pressured or forced to have sexual contact while in prison, please describe what happened in the rest of the questions. If you have been forced or pressured to have sexual contact more than once in prison, describe the one time that was the most serious or harmful to you.

10. In the incident when you were pressured or forced to have sexual contact against your will, how many people were involved?

_____ Number of Persons

11. Was the person(s) who did this male _____ or female _____ or both _____?

12. What person(s) made the sexual contact? Check as many that apply.

_____ Another inmate--stranger to you
 _____ Another inmate--known to you/acquaintance
 _____ A person working at the prison
 _____ A person visiting the prison
 _____ Other (Please explain) _____

13. What kind of pressure or force was used by this person to have sexual contact with you? Check all that happened.

_____ Persuasion--Talked you into it.
 _____ Bribe
 _____ Blackmail
 _____ Threatened to withdraw their love for you.
 _____ Got you drunk or high
 _____ Threatened to harm or hurt you
 _____ Scared you because they were bigger and stronger
 _____ Physically held you down or restrained you
 _____ Physically harmed you
 _____ Used a weapon
 _____ Other: _____

14. What kind of sexual acts did the person pressure or force you to do? Check all things that happened.
- ☐ Tried to touch you but was prevented
 - ☐ Touched your genitals or sexual parts
 - ☐ Made you touch his/her genitals or sexual parts
 - ☐ Engaged in oral sex (give head, fellatio)
 - ☐ Engaged in anal sex (in the butt, sodomy)
 - ☐ Engaged in vaginal sex
 - ☐ Other? _____
15. What prison facility did this happen at? _____
16. In your own words, please describe what happened. Use the back of the paper if you need more room to write.
17. How much did the incident emotionally upset you at the time it happened? Circle one number.
- | | | | | | | | | |
|-------------------------|---|---|---|---|---|---|---|--------------------------|
| IT WAS NOT UPSETTING | 1 | 2 | 3 | 4 | 5 | 6 | 7 | IT WAS VERY UPSETTING |
|-------------------------|---|---|---|---|---|---|---|--------------------------|
18. Has the incident had any lasting bad effects on you? Circle one number.
- | | | | | | | | | |
|--------------------------------------|---|---|---|---|---|---|---|--|
| IT HAS HAD NO BAD EFFECT ON ME | 1 | 2 | 3 | 4 | 5 | 6 | 7 | IT HAS HAD A SEVERE BAD EFFECT ON ME |
|--------------------------------------|---|---|---|---|---|---|---|--|

19. What kind of bad effects has the incident caused? Check all the bad effects you have had.

☐ No bad effects have occurred
☐ Nervous around some people
☐ Don't like people getting physically close to me
☐ Don't trust people
☐ Worry about my manhood
☐ Worry that it will happen again
☐ Flashbacks, bad dreams
☐ Depression
☐ Thoughts of suicide
☐ Have physical injuries
☐ Other? _____

20. Did you tell anyone about this incident?

Yes _____ No _____

21. If yes, who did you tell? Check all the people that you told.

☐ Another inmate
☐ Counselor/clergy
☐ Teacher
☐ Medical person
☐ Prison staff--Not administrative
☐ Prison administrators
☐ Friends, family outside of the prison
☐ Other? _____

22. If you did not tell anyone, why not?

THANK YOU VERY MUCH FOR YOUR HELP.

**A STUDY OF INMATE AND STAFF VIEWS
OF LIFE IN NEBRASKA PRISONS**

Staff Consent Form

You are invited to be in a study of what inmates and staff think about life in Nebraska prisons. This study is being done by Dr. Cindy Struckman-Johnson and Dr. Lila Rucker, professors from the University of South Dakota, and Mr. Kurt Bumby, a graduate student from the University of Nebraska at Lincoln.

The purpose of the study is to collect accurate information about how people experience prison life. If you decide to be in the study, the staff will give you a survey to complete in privacy. The survey is ANONYMOUS. You do NOT put your name anywhere on it. When we report the study, we will make sure that no one can identify the answers you give.

You will be asked questions about prison life, such as what the rules are, what activities are allowed, and how safe you feel here. In the last part of the survey, you will be asked about sexual assaults in your prison facility.

The survey takes about 20 minutes to do. You will be given an addressed envelope to return the survey to the researchers so that no one from the prison will see your answers.

Participation in this study is VOLUNTARY. You do not have to do the survey if you don't want to. There will be no penalties if you don't do the survey.

One benefit of the study is that the information will be published in a scientific report and will help others to understand prison life. The researchers will also make the results available to prison staff and inmates.

Your voluntary consent to participate in this study is given by returning your completed survey to the researchers in the provided envelope. The surveys will be kept confidential in a locked file and will only be used for research purposes. Thank you in advance for your help.

Dr. Cindy Struckman-Johnson
Department of Psychology
605-677-5242

Dr. Lila Rucker
Criminal Justice Department
605-677-5295

University of South Dakota, Vermillion SD 57069

STAFF DEMOGRAPHIC SHEET

Place a check mark by the correct choice.

1. Education: Grade school _____ GED _____
High School _____ College _____
2. Race: Caucasian-white _____ Native American _____
African American _____ Hispanic American _____
Other _____
3. Age: 15 - 20 yrs _____ 36 - 40 yrs _____
21 - 25 yrs _____ 41 - 45 yrs _____
26 - 30 yrs _____ 46 - 55 yrs _____
31 - 35 yrs _____ 56 - 65 yrs _____
66 yrs or more _____
4. Are you a man _____ or a woman _____?
5. Which facility are you currently assigned to?
(Nebraska facility alternatives will be listed)
6. Current job assignment in this facility:
Administrative _____ Length of time _____
Security _____ Length of time _____
Treatment _____ Length of time _____
Other _____ Length of time _____
7. Job assignment held longest in Nebraska prison system:

8. Total length of service in corrections: _____

A SURVEY OF LIFE IN PRISON

INSTRUCTIONS: What goes on in prison differs from one facility to another. The rules are different. Inmates have more freedom, privacy, and activities in some prisons than in others. There is less violence in some facilities. At some places the staff are more supportive.

We are interested in life in this facility. We want to know what goes on here, what it is like to live and work here.

We particularly want to know what it is like to live in your particular housing unit (cell block, tier or dormitory).

We give you a statement about something that might happen in your housing unit. You are to indicate if that event never happens, seldom happens, often happens, or always happens on your unit. Here is an example:

The food here is tasty.

never seldom often always

On your answer sheet, circle the response that best describes how things are. Some choices will be easy. Others will not. Even if you have a hard time deciding, let us know what best describes what goes on here. Don't skip any questions.

Remember to answer the questions about what it is like on your cell block, tier, or dormitory.

1. Inmates know what will happen if they violate the rules.
never seldom often always
2. The guards tell inmates when they do well.
never seldom often always
3. There is at least one movie each week.
never seldom often always
4. An inmate is sexually attacked on this unit.
never seldom often always

5. Inmates spend several hours each day talking with friends.
never seldom often always
6. Inmates fight with other inmates.
never seldom often always
7. The guards ask inmates about their personal feelings.
never seldom often always
8. Inmates are with their friends at night.
never seldom often always
9. If an inmate tries a new hobby or art, the guards will encourage him.
never seldom often always
10. Inmates know the rules.
never seldom often always
11. Inmates are with more than three friends at a time.
never seldom often always
12. Someone's cell is robbed on this unit.
never seldom often always
13. This unit is quiet.
never seldom often always
14. Inmates feel free to go up and talk to other inmates even if they are strangers.
never seldom often always
15. Inmates stay in their cells if they want.
never seldom often always

16. Inmates receive visitors any time during the day.
never seldom often always
17. Prison officials help inmates with problems.
never seldom often always
18. An inmate obtains training if he wants.
never seldom often always
19. Weaker inmates are sexually attacked.
never seldom often always
20. Inmates read without being disturbed.
never seldom often always
21. Inmates care about one another.
never seldom often always
22. Inmates see their close inmate friends when they want to.
never seldom often always
23. A weaker inmate is physically attacked.
never seldom often always
24. Inmates can be alone without being disturbed.
never seldom often always
25. Inmates do not have to work if they do not want to.
never seldom often always
26. A person learns new skills here.
never seldom often always
27. Inmates have something to do every night.
never seldom often always

28. Inmates lift weights when they want to.
 never seldom often always
29. Guards tease depressed inmates.
 never seldom often always
30. Inmates rap with the guards.
 never seldom often always
31. Each inmate can lift weights at least one hour each day.
 never seldom often always
32. Inmates know what will get them written up by the guards.
 never seldom often always
33. Inmates talk to one another about their feelings.
 never seldom often always
34. Inmates keep busy by participating in sports.
 never seldom often always
35. An inmate's cell is robbed.
 never seldom often always
36. If an inmate lets other people know he does not want to be
 bothered, they will not bother him.
 never seldom often always
37. Inmates know when the gym is open.
 never seldom often always
38. Inmates let their friends know they care about them.
 never seldom often always

39. Inmates are allowed to read when they want.
never seldom often always
40. Inmates know when they can take a shower.
never seldom often always
41. Inmates who do favors for their friends are liked.
never seldom often always
42. Prison programs teach inmates new skills.
never seldom often always
43. Inmates keep busy with their hobbies.
never seldom often always
44. Inmates know when the commissary is open.
never seldom often always
45. Prison programs help inmates make parole.
never seldom often always
46. Inmates stay up as late as they want.
never seldom often always
47. Inmates have at least one hour of uninterrupted time to themselves each night.
never seldom often always
48. Inmates listen to music when they want.
never seldom often always

STAFF OPINIONS OF SEXUAL ASSAULT IN THE PRISON

1. In the prison you are in now, have you heard about any times in which an inmate was pressured or forced to have sexual contact against their will?
 Yes _____ No _____
 If yes, how many incidents have you heard about?
 _____ Number of Incidents
2. In the prison you are in now, about what percentage of inmates do you think have been pressured or forced to have sexual contact against their will? Circle your best guess.
 0% 1% 5% 10% 20% 30% 40% 50% 60% 70% 80% 90% 100%
3. In the prison you are in now, do you think that the prison system protects inmates from pressured or forced sexual contact? Circle one number.
 Definitely No 1 2 3 4 5 6 7 Definitely Yes
4. What do you think are some good ways to prevent sexual assault in prisons?

THANK YOU VERY MUCH FOR YOUR HELP.



UNIVERSITY of
SOUTH DAKOTA
414 EAST CLARK STREET • VERMILLION SD 57069-2390

Attachment C

DEPARTMENT OF PSYCHOLOGY

January 12, 1995

Dear Inmates and Staff,

Here are the results of the "Nebraska Life in Prison" survey which was sent to all inmates and a number of staff at OCC, NSP, LCC, and NCW in March and April, 1994. In our research consent form, we promised to provide a summary of the results to all participants in the study. Because we do not know the names of the nearly 800 people who sent back the survey, we have received permission from the Department of Corrections administration to post the results in locations where all inmates and staff may see them.

I have sent copies of the summary which will be made available upon request to inmates (go to your Unit Staff) and staff (go to your Unit Staff or to the Warden's Staff.) I have requested that a copy of the summary be given to anyone who asks without the recording of names. Thank you everyone for your help with the study.

Sincerely,

Cindy Struckman-Johnson

Cindy Struckman-Johnson, Ph.D.
Associate Professor, Psychology

SUMMARY OF THE NEBRASKA LIFE IN PRISON STUDY

Dr. Cindy Struckman-Johnson
University of South Dakota

To Inmates and Staff:

This is a summary of the results of the Nebraska Life in Prison study which was given to you in March and April, 1994. The response from inmates and staff was very good. We know it was not an easy survey to take because it was long and asked very personal questions. Many of you wanted to know why we did the survey. Cindy Struckman-Johnson is a social psychology professor who studies sexual assault of men and women. Lila Rucker is a criminal justice professor who studies the effects of living and working in prisons. Kurt Bumby is a clinical psychologist who has counseled inmates in Nebraska prisons. We joined efforts in this study to collect information which we hope will lead to improvements in prison life for both inmates and staff. We plan to submit the results for publication in a research journal. We paid for the survey with our own money. We do not represent any organization--only ourselves as researchers. Thank you again for your help, including your letters and notes sent with the survey. If you wrote your name anywhere on material sent to us, we will keep your name strictly confidential.

The Nebraska Department of Corrections allowed us to do the survey because their goal is to create a secure prison where sexual assault of inmates does not occur. The survey results will allow them to estimate the extent of the problem and will help them plan prevention efforts. The NDC is one of the first prison administrations in the nation to undertake this type of assessment and prevention effort. We thank them for their cooperation.

SURVEY RESULTS

Please remember that we are describing the results of a survey, not verified facts. The numbers represent the reported opinions and experiences of individuals who volunteered to do our survey.

In the summary we use the symbol % to stand for percent. For example, the result "25 % of inmates said yes" means that of all the inmates who answered that question (100%), 25 percent (25 of 100 or one fourth) answered yes. The numbers may not always add up to 100% because not everyone gave an answer to each question and more than one answer could be marked for some questions. The letter n refers to number. The word sample refers to the group of people who took the survey.

The survey was sent to about 1800 inmates at 4 facilities. A total of 528 inmates (452 men and 48 women) sent back a reply (30% overall return rate.) There were 12 inmate replies which could not be used. The number of usable surveys from facilities were: 106 from OCC (23% return rate), 164 from LCC (36% return rate), 204 from NSP (27% return rate) and 42 from NCW (45% return rate). Inmates who took the survey were 67% White, 22% African American, 4% Native American and 4% Hispanic. About 40% had a GED and 40% had some college education. Inmates were from all age groups but were mostly between 26 and 47 years old. Most inmates were in prison for a crime against persons. Inmates had served an average of 3 to 4 years in their current facility.

The survey was sent to about 700 staff at 4 facilities. A total of 265 staff (186 men and 78 women) returned the survey (37% overall return rate.) The number of usable surveys from facilities were: 51 from OCC (34% return rate), 67 from LCC (35% return rate), 108 from NSP (34% return rate) and 39 from NCW (62% return rate). Staff who took the survey were 87% White, 7% African American, 1% Native American and 2% Hispanic. Most staff were between 26 and 47 years old. Nearly 80% had some college education. Staff were 53% security, 28% unit management, 10% treatment and 6% administrative. Staff had worked an average of 6 years at their current job.

Ratings of Life in Prison. The first part of the survey had questions about "Life in Prison". People rated sentences like "Inmates know the rules," with the words Never, Sometimes, Often, and Always. The questions show people's opinions of a prison for Structure (Do inmates know the rules and what will happen if they are broken?), Social Life (Are inmates able to socialize with their friends?), Support (Does the facility give help for problems, getting new training and parole?), Safety (Are inmates safe from crimes by others?), Privacy (Do inmates have some privacy?) and Freedom (Can inmates read, work, or stay in their cells when they want?) The table shows how inmates and staff rated their facilities.

| | OCC Inmate Staff | | LCC Inmate Staff | | NSP Inmate Staff | | NCW Inmate Staff | |
|-----------|---------------------|-------|---------------------|-------|---------------------|-------|---------------------|-------|
| Structure | Hi | Hi | Hi | Hi | Hi | Hi | Hi | Hi + |
| Social | Med | Med | Med | Med | Med | Med | Med + | Med + |
| Support | Low | Med | Low | Med | Low | Med | Med- | Med + |
| Safety | Med + | Med + | Med- | Med | Med | Med | Hi | Med + |
| Privacy | Med | Med | Med | Med | Med- | Med | Med | Med |
| Freedom | Med | Med | Med + | Med + | Med | Med + | Med | Med |

Inmates and staff agreed with each other most of the time. Nearly everyone gave a high rating to Structure--The rules are made clear in every facility. Safety received good ratings at OCC and NCW. Most other qualities were rated as medium or "average". However, while staff rated support at LCC, OCC and NSP as medium, inmates rated it low. Overall, NCW received the highest ratings from its inmates and staff.

Opinions of Sexual Assault. Inmates and staff were asked "In the prison you are now in", (1) How many incidents have you heard about in which an inmate was pressured or forced to have sexual contact against their will? (2) About what percentage of inmates do you think have been pressured or forced to have sexual contact against their will (on a scale from 0% to 100%)? and (3) Do you think that the prison system protects inmates from pressured or forced sexual contact (on a scale of 1--Definitely No to 7--Definitely Yes)? The next table shows answers for each facility.

| | OCC Inmate Staff | | LCC Inmate Staff | | NSP Inmate Staff | | NCW Inmate Staff | |
|-------------------------------|---------------------|------|---------------------|------|---------------------|------|---------------------|------|
| Number of Incidents Heard Of? | 7 | 4 | 17 | 16 | 14 | 8 | 1 | 2 |
| Guess % Happened To? | 15% | 11% | 26% | 16% | 19% | 19% | 3% | 8% |
| Does Facility Protect? | No | Yes! | No! | Yes? | No! | Yes? | Yes? | Yes! |
| | 3.3 | 5.2 | 2.5 | 4.3 | 2.7 | 4.4 | 4.4 | 5.7 |

Reports of Pressured or Forced Sexual Contact. Inmates were asked "Since the time you have been in a Nebraska Prison, has anyone ever pressured or forced you to have sexual contact (touching of genitals, oral, anal or vaginal sex) against your will?" Of the 512 inmates who answered, 104 (20%) said yes. The number of inmates saying "yes" (targeted inmates) for each facility were: 17 at OCC (16%), 38 at LCC (24%), 46 at NSP (23%), 3 at NCW (7%). The percent of targeted inmates at OCC may be closer to 8 - 10% because several inmates reported incidents which happened at NSP or LCC.

The survey result showing that 20% of inmates reported pressured or forced sexual contact does not mean that NDC has a unique problem with sexual assault. This finding must be qualified as follows:

- 1) Sexual assault is assumed to be a significant problem in most prisons in America (Donaldson, 1993.) Over 15 years ago, some prisons were found to have sexual assault rates as high as 28% (Lockwood, 1978.) We believe that if other state prisons assessed sexual assault rates, their rates are likely to be much higher than those found for Nebraska prisons.
- 2) The 20% does not represent a "prison rape" rate. The 104 inmates were the targets of actions which ranged from only attempts at contact, to genital touching, to oral sex, to anal or vaginal intercourse.
- 3) Inmates in two facilities (OCC and NCW) reported relatively low rates of forced sexual contact. A large percentage of these acts involved only attempts at contact.
- 4) The percentage is based upon the self reports of inmates who volunteered to participate in the study. As researchers, we believe that inmates were truthfully reporting their experiences. However, it is possible that some individuals gave false reports. It is also possible that some inmates who were assaulted did not return surveys.

The 104 targeted inmates were 78% White, 18% African American and 2% Hispanic. There were 18% age 18 to 25, 51% were age 26 to 36, and 27% were age 37 to 47. About 70% were heterosexual, 26% were bisexual and 2% were homosexual. When asked how many times it had happened, 27% said once, 29% said 2 to 5 times, 23% said 5 to 10 times, 10% said 10 to 50 times, and 4% said 50 to 100 times or more. About 6% did not answer. Targeted inmates were asked to answer questions about one

incident when they were assaulted. If they had been assaulted several times, they were to describe the one most serious or harmful incident. The next table shows the numbers and percentages of targeted inmates by categories of the most serious sexual contact that occurred.

| | OCC n = 17 | LCC n = 38 | NSP n = 46 | NCW n = 3 | TARGET % n = 104 | SAMPLE % n = 516 |
|------------------|---------------|---------------|---------------|--------------|---------------------|---------------------|
| Attempts | 7 (41%) | 2 (5%) | 5 (11%) | 1 (33%) | 15 (14%) | 15 (3%) |
| Genital Touching | 0 | 5 (13%) | 9 (20%) | 2 (67%) | 16 (15%) | 16 (3%) |
| Oral Sex | 0 | 4 (11%) | 4 (9%) | 0 | 8 (8%) | 8 (2%) |
| Anal Sex | 6 (35%) | 26 (68%) | 21 (46%) | 0 | 53 (51%) | 53 (10%) |
| Vaginal Sex | 0 | 0 | 1 (2%) | 0 | 1 (1%) | 1 (.2%) |
| Unknown | 4 (24%) | 1 (3%) | 6 (13%) | 0 | 11 (11%) | 11 (2%) |

Inmates had been assaulted by a single person in 49% of the cases. In 41% of the incidents, victims had been assaulted by a group of 2 to 5 perpetrators (attackers). In about 10% of the cases, victims were assaulted by groups of 6 to as many as 20 perpetrators. The perpetrators were men in 91% of the cases, women in 4% and both men and women in 5% of the incidents. Perpetrators were unknown "stranger" inmates in 56% of the cases, known "acquaintance" inmates in 59% of the cases, prison staff in 20% of the incidents, and prison visitors in 2% of the cases.

Targeted inmates were asked to report what tactics were used to by the perpetrators to pressure or force sex. The perpetrators usually used a combination of several tactics. For pressure tactics, verbal persuasion was involved in 38% of the cases, bribery in 13%, blackmail in 11%, withdrawal of love in 7% and alcohol or drugs in 21% of the incidents. For force tactics, threat of harm was used in 64% of the incidents and intimidation by larger size and strength was used in 53% of the cases. Inmates were held down or restrained in 35% of the incidents and physically harmed in 32% of the cases. Perpetrators used a weapon in 27% of the incidents. Overall, 10% of the reported incidents involved only pressure tactics, 76% involved force tactics, and 14% involved an unknown tactic.

About 70 targeted inmates wrote a description of how the incident happened. In some cases, inmates were verbally pressured or harassed by a perpetrator but they were able to prevent sexual contact by talking, threatening back or fighting with the perpetrator. Many inmates had sex with someone who threatened "problems in prison life" or serious harm if the inmate did not cooperate. Several inmates were threatened with knives. Numerous inmates wrote about being physically restrained in an isolated area (often starting in the showers) by several perpetrators who would take turns receiving fellatio or sodomizing the victim. Quite a few inmates wrote about being attacked by a new cellmate (usually an older inmate.) Several wrote that they were physically injured during the assault. Some inmates injured their attackers, but they were then penalized by staff for fighting. In some cases, inmates were rescued from an assault by other inmates or prison staff.

The effects of the assaults were extremely negative for most (but not all) of the targeted inmates. On the average, inmates rated incidents as being very upsetting at the time it happened and as having lasting bad effects. About 13% of the targets said the incident had "no bad effects" on them. The rest said that they had a combination of bad effects. About 73% distrusted people, 72% felt nervous around some people, 65% did not like people getting physically close to them, 62% had depression, 61% worried about it happening again, 49% worried about their reputation as a man/woman, 42% had flashbacks and bad dreams, 38% had thoughts of suicide, and 17% had physical injuries. "Other" reported effects were hatred, anger, desire for revenge and racial prejudice.

Most targeted inmates (55%) did not tell anyone about the incident. The number one reason for not telling was fear that the perpetrator(s) would kill or injure them. Other reasons were: They felt that staff would not believe them, they did not want a misconduct report, they did not want to go to P.C., they were ashamed or embarrassed and they believed that nothing would be done. Those who did tell someone were most likely to tell family or friends outside of prison (27%), another inmate (26%), counselor/clergy (20%), non-administrative prison staff (21%), and prison administrators (20%).

Several inmates wrote that much of the sexual contact between inmates is voluntary and done for purposes of sexual release and intimacy which are difficult to achieve in other ways in prison. They said that not all prison sex is unwanted or negative.

Solutions. All inmates and staff were asked to suggest ways in which sexual assault in prisons could be prevented. Inmate Solutions were (starting with the ones mentioned most often):

1. Keep predators segregated--separate young, new inmates from older inmates, others from sexual offenders, nonviolent from violent, heterosexuals from homosexuals, keep racial groups apart.
 2. Have conjugal visits with spouses, lovers.
 3. Have single cells.
 4. Have more staff and supervision.
 5. Have stricter penalties for perpetrators.
 6. Teach inmates prevention, self defense, how to avoid blind areas.
- Others: There are no solutions, give furloughs, allow love dolls, provide more porn, provide less porn, form protective inmate pairs, have staff who care.

Staff Solutions were (starting with the ones mentioned most often):

1. Hire more staff and increase supervision.
 2. Use better screening and roommate pairing to segregate predators from potential victims.
 3. Have single cells.
 4. Teach staff and inmates about prevention, self defense, how to avoid potential assault situations.
 5. Have stricter, faster penalties for perpetrators.
 6. Have better relationships and communication between staff and inmates.
 7. Use protective custody for victims.
 8. Get rid of blind areas.
- Others: More activities for inmates, counseling, support for victims, treatment for perpetrators, conjugal visits, have staff who care.

THE END

A Survey of Inmate and Staff Perspectives on Prisoner Sexual Assault

Cindy Struckman-Johnson, Ph.D.

Sexual assault of prison inmates is a subject largely ignored by society and scientists. In 1934, Fishman, a former inspector of federal prisons, noted that every year large numbers of boys, adolescent youths, and young men are "made homosexual, either temporarily or permanently" by relentless perpetrators in American prisons. In the preface to his book, Fishman wrote "We are living in a frank and realistic age, yet the subject of sex in prison--so provocative, so vital, so timely...is shrouded in dread silence." The silence has largely prevailed throughout the century. According to a recent review by Dumond (1992), there have been less than a dozen studies conducted on inmate sexual assault in American prisons.

One can only speculate why rape of men in prison has not drawn the attention of the research community, and particularly that of psychologists. General unawareness of the problem may be the primary cause. Because prison rape happens in controlled institutional settings, official information about sexual assaults is tightly contained and not easily accessed by outside observers (French, 1979). For the same reason, newspaper and television reporting of prison rape incidents has been limited. Researchers who do gain access to information have typically published their results in corrections or criminal justice journals, as opposed to mainstream psychology publications. Although information about prison rape is sometimes included in psychology and human sexuality texts, it is often limited to a few paragraphs in sections on sexual coercion.

Another reason for the paucity of research may be social scientists' misperceptions about the nature of sexual assault in prisons. Cotton and Groth (1982) have written that the myths which surround prison rape have led people to dismiss it as consensual activity. Many people have difficulty understanding how a strong, heterosexual man can be forced to participate in sexual acts against his will. Consequently, they may wrongly assume that prison rape is a homosexual activity, that victims have given their consent to participate, and that the consequences of assault are not substantial.

It is also possible that researchers have avoided this topic because of prejudice against inmate victims (Ibrahim, 1974). Perhaps social scientists, like many citizens, do not view inmate victims of sexual assault as "true" rape victims. To the credit of years of rape awareness education, individuals who are raped in community settings are now compassionately viewed by the public as innocent or at least undeserving victims of circumstance. In contrast, incarcerated inmates who are sexually assaulted may be viewed as somewhat deserving or responsible for their fate because of the crimes they have committed against society. Although this stance may sound harsh, a recent poll of 400 registered voters in Massachusetts revealed that 50% agreed that society in general

accepts prison rape as part of the price criminals pay for wrongdoing (Boston Globe, May 17, 1994.)

As a consequence of the lack of research, conclusive data on the prevalence of prison assault is unavailable (Dumond, 1992). In one of the earliest studies conducted, Davis (1982) estimated that approximately 1,000 incidents of sexual assault occurred annually in the Philadelphia prison system which housed over 60,000 inmates. Davis based his estimates on interviews with over 3,000 inmates collected over a 26 month period. Sexual assault was defined as coercive solicitations, including those accompanied by physical force or threat. Two thirds of the reported incidents were described as completed rapes.

Lockwood (1980, 1994) reported that 28% of inmates in a New York state prison had been the target of sexual aggression at least once. He based his estimates on interviews with 89 randomly selected inmates. Although one third of the inmates had been physically harmed in the incident, only one inmate (1.3%) reported that he had been raped.

Nacci and Kane (1983, 1984), interviewing 330 randomly-selected inmates from 17 facilities, estimated that 9% of inmates in their total prison experience were "targets" in that someone had forced or attempted to force them to have sex against their will (with battery). However, only 2% of inmates in Federal institutions were targets. The reported rape rate for the sample was .3%.

In contrast, Wooden and Parker (1982) found that 14% of a randomly-selected sample of 200 inmates in a California state prison reported in an anonymous survey that they had been "pressured into having sex against my will". The rate was 41% for homosexuals, 2% for bisexuals and 9% for heterosexuals in the sample.

In a recent article on male rape in prison, Eigenberg (1994) contends that the prison rape rates found in these major studies may be low estimates of the actual behavior. In her opinion, the stigma of being raped and reporting rape (being a snitch) causes inmates to underreport both rape and consensual activities to researchers. Agreeing with this position, writer and prison rape survivor Stephen Donaldson (1993b) has argued that as many as 290,000 men are sexually victimized in American prisons each year.

The present study was undertaken to gain information about the incidence and dynamics of prison sexual assault that would be relevant for the 1990's. As researchers representing both psychology and criminal justice, we intended that our results be used by professionals in both areas to understand this problem. In the first step of our study, we obtained permission from the administration of a midwestern state prison system to conduct a survey on sexual assault of inmates. We distributed anonymous questionnaires to the total population of inmates housed in four separate facilities. The survey was designed to determine the number of inmates who have been pressured or

forced to have sex while in a state prison facility, what sexual acts they had been engaged in, and the emotional consequences of the incidents. A separate survey was administered to selected staff at each facility to assess their estimates of the prevalence of sexual assault. We asked both inmates and staff to suggest ways to prevent sexual assault in prisons, as our ultimate goal was to determine possible solutions to the problem.

Methods

Subjects

The total available inmate population consisted of 1,801 persons (1,708 men and 93 women) incarcerated in two men's maximum security facilities (A = 785 and B = 467), one men's minimum-security facility (n = 456), and one women's facility (n = 93) in the state prison system of a rural midwestern state. (The two maximum security facilities housed some medium security inmates.) This population represented all adult prisoners housed in the four facilities in March and April of 1994.

The staff sample consisted of 714 persons working at the four facilities (maximum security A = 318; maximum security B = 185; men's minimum security = 151; women's facility = 60.) The staff selected for the survey (sex distribution unknown) were drawn from occupations which entailed policy-making, supervision, and close interaction with inmates. The categories included wardens and captains (n = 12), corrections corporals and officers (n = 427), unit managers and caseworkers (n = 165), and treatment staff in mental health, recreation, religion and teaching (n = 110.)

Instrument

Inmate Questionnaire. The inmate survey consisted of: 1) a consent form; 2) demographic page; 3) prison environment inventory; 4) estimates for actual and perceived incidence of sexual assault rates and solution ideas; and 5) description of incidents. We attempted to keep the language simple and clear to make it easy for inmates to understand the survey questions. However, we did use words such as incarcerated, perpetrators, incidents, and facility because most inmates are familiar with these terms.

The informed consent form was carefully developed to reflect the sensitive nature of the topic of sexual assault and the essential privacy needs of incarcerated subjects. The form consisted of an invitation for inmates to participate anonymously in a survey about life in a state prison system, including the experience of sexual assault. Potential subjects were instructed that participation was voluntary and that all information would be reported in such a way that individuals could not be identified. They were asked not to identify anyone by name in the survey. They were assured that if they did reveal information that identified them personally, it would be kept in strict

confidence. Finally, inmates were told that they would receive a summary of the results of the study.

The demographic page included items for education level, race, age, and sex. Inmates were asked to check any offenses "for which you have ever been convicted" from a list of 31. The offenses were divided and labeled for categories of drug related, against property, against persons, and against public order. In a simpler version of this item, subjects were asked to check any of these four categories for "crimes for which you are now incarcerated". Subjects were asked to give the length of their current prison sentence. Finally, they were asked to identify their current prison facility and the length of time incarcerated there.

The "Prison Environment Inventory" or PEI (Wright, 1985) is a 48-item scale designed to assess one's perceptions of safety, structured rules, support and personal freedom which characterize a prison facility. There are six subscales in the PEI with coefficient alphas ranging from .51 to .76. The measure was included to give all inmates an opportunity to assess prison conditions, regardless of their experience with sexual assault.

The third section entitled "A Survey of Sexual Experiences" began with the key question "Since the time you have been in a ___ prison, has anyone ever pressured or forced you to have sexual contact (touching of genitals, oral, anal, or vaginal sex) against your will?" Response answers were "Yes", "No", and "Not Sure". We used the phrase "pressured or forced" in order to assess incidents brought about by verbal pressure tactics, as well as by force. Inmates were then asked "If yes, how many times has it happened?" and "If yes, how many different persons have done this to you?"

The questions which followed were designed to give all inmates--regardless of personal experiences with sexual assault--an opportunity to estimate how prevalent the activity was in their current facility. The first question was "In the prison you are in now, have you heard about any times in which an inmate was pressured or forced to have sexual contact against their will?" If inmates said yes, they were asked to fill in a number for "how many incidents have you heard of?" Inmates were next asked "In the prison you are in now, about what percentage of inmates do you think have been pressured or forced to have sexual contact against their will? Circle your best guess." The response choices were a row of percentages "0%, 1%, 5%, 10%, 20%" and upward in increments of 10% to 100%.

In order to assess inmates' perception of their level of protection from sexual assault, they were asked "In the prison you are in now, do you think that the prison system protects inmates from pressured or forced sexual contact? Circle one number."

The scale consisted of numbers 1 - 7 with 1 labeled "Definitely No" and 7 labeled "Definitely Yes". Inmates' solutions were solicited by a free response question: "What do you think are some good ways to prevent sexual assault in prisons?".

The final section was reserved for the most sensitive questions of the survey. At the top of the page was the item "Do you consider yourself to be: Heterosexual, Bisexual, or Homosexual". Then, bold print instructions informed subjects if they had never been pressured or forced to have sexual contact while in prison, they were finished with the survey and to please return it. The next paragraph read "If you HAVE been pressured or forced to have sexual contact while in prison, please describe what happened in the rest of the questions. If you have been forced or pressured to have sexual contact more than once in prison, describe the one time that was the most serious or harmful to you."

The first question read "In the incident when you were pressured or forced to have sexual contact against your will, how many people were involved? " Subjects also indicated whether the person(s) was male, female or both. To assess the relationship of the perpetrator to the inmate, inmates were asked "What person(s) made the sexual contact? Check as many that apply." The alternatives were: another inmate--stranger to you; another inmate--known to you/acquaintance; a person working at the prison; a person visiting the prison; and a write-in "other" category.

The next two questions were adapted from items used to measure pressured and forced sexual experiences among college men (Struckman-Johnson & Struckman-Johnson, 1994). Tactics for obtaining sexual contact were assessed by asking "What kind of pressure or force was used by this person to have sexual contact with you? Check all that happened." The categories included five pressure tactics: persuasion--talked you into it; bribe; blackmail; threatened to withdraw their love for you; and got you drunk or high. Force tactics listed were: threatened to harm or hurt you; scared you because they were bigger and stronger; physically held you down or restrained you; physically harmed you; and used a weapon. A write-in "other" category ended the list.

Sexual outcome was assessed by asking "What kind of sexual acts did the person pressure or force you to do? Check all things that happened." Alternatives included: tried to touch you but was prevented; touched your genitals or sexual parts; made you touch his/her genitals or sexual parts; engaged in oral sex (give head, fellatio); engaged in anal sex (in the butt, sodomy); and engaged in vaginal sex. A write-in "other" category was listed.

Subjects were asked to identify the prison facility where the incident happened and "In your own words, please describe what happened".

Three items assessed the nature of emotional consequences of the incidents. For immediate reactions, inmates were asked "How much did the incident emotionally

upset you at the time it happened? Circle one number." The 7-number scale was anchored by 1) It Was Not Upsetting and 7) It Was Very Upsetting. To assess long term effects, inmates were asked "Has the incident had any lasting bad effects on you? Circle one number." The 7-number scale was anchored by 1) It Has Had No Bad Effect on me and 7) It Has Had a Severe Bad Effect On Me.

Inmates were then asked "What kind of bad effects has the incident caused? Check all the bad effects you have had." The first alternative was "no bad effects have occurred". Eight emotional reactions listed were: nervous around some people; don't like people getting physically close to me; don't trust people; worry about my reputation as a man or as a woman; worry that it will happen again; flashbacks/bad dreams; depression; and thoughts of suicide. One alternative listed "Have physical injuries". A write-in "other" category ended the list.

The final three questions assessed whether inmates told others about the incident. They were asked "Did you tell anyone about this incident?" and "If yes, who did you tell? Check all the people that you told." Alternatives included: another inmate; counselor/clergy; teacher; medical person; prison staff--not administrative; prison administrators; friends-family outside of the prison; and a write-in "other" category.

The questionnaire ended with instructions to please mail back the survey in the return-addressed, postage-paid envelope.

Staff Survey. The staff questionnaire consisted of an informed consent form, a demographic page, a Prison Environment Inventory, and a section for estimates and opinions about sexual assault in their prison facility.

The consent form was similar to the inmate form in assurances for anonymity and confidentiality. The staff demographic items were identical to inmate items for education, race, age, and sex. Staff were asked to identify their current facility, category of job assignment (administrative, unit management, security, or treatment), and the length of time at this assignment. They were asked what category of job assignment they had held longest in the state prison system and their total length of time in corrections work.

The staff form of the PEI scale was identical to that used for the inmate instrument. The final section entitled "Staff Opinions of Sexual Assault in the Prison" contained questions identical to those in the inmate instrument for estimates of the prevalence of sexual assault, protection efforts in the prison, and prevention ideas.

Procedures

A request to conduct the study was submitted to the Planning, Research and Accreditation office in the Department of Correctional Services. The administration

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was receptive to the study and gave approval within two months of application. The study procedures were approved by an academic Human Subjects Committee and by a review process in the Department of Correctional Services.

Each inmate instrument was packaged in an envelope which contained a second return-addressed, postage-paid envelope for returning the survey. A short note explaining the purpose of the survey was printed on a brightly colored card and stapled to the front of enclosure envelope. A total of 1,801 envelopes were transported to mailrooms of the four prison facilities. They were distributed to all available inmates residing in each facility on the following mail day. One week after the initial distribution, the same procedure was used to issue every inmate a colored card which asked them to please complete and return the survey if they had not already done so. Inmates were told if they had lost their survey, additional ones could be obtained from unit management.

The same procedures were used to prepare and distribute 714 staff surveys. We used lists provided by the Department of Corrections to sort and label the number of surveys to be delivered to each type of staff person in each facility. Staff surveys were distributed the same days as inmate surveys. Staff also received a follow-up reminder card one week later.

Results

Characteristics of the Samples

Of the 1,801 inmates surveyed, a total of 528 inmates (486 men and 42 women) sent back a reply. Allowing for an estimated 20 inmates who were in transit or unavailable on the day of survey delivery, the return rate was approximately 30%. As 12 returned surveys could not be used, the final sample size was 516. The number of usable surveys returned from each facility were: 204 from men's maximum security A (27% return rate), 164 from men's maximum security B (36% return rate), 106 from men's minimum security (23% return rate) and 42 from the women's facility (45% return rate.)

Of the 516 responding inmates, 472 (91%) were male, 42 (8%) were female, and 2 (.4%) were asexual. For age, 22% of the respondents were 17 - 25, 44% were 26 - 36, 25% were 37 - 47, and 9% were 48 and older. Inmate racial groups were: 67% White; 22% African American; 4% Native American; 4% Hispanic; and 4% other. Sexual orientation categories were: 86% heterosexual; 11% bisexual, 3% homosexual and .6% other. The educational levels achieved by inmates were: 3% with grade school only; 19% with high school, 39% with a GED, and 39% with some college.

The most common crimes that inmates had been convicted for in their lifetimes were: aggravated assault (20%); robbery (18%); murder (16%); grand theft (14%);

sexual contact with a child (14%); D.W.I.(14%); committing a crime while armed (13%); possession of a concealed weapon (12%); rape (12%); escape (12%); and possession of a controlled substance (11%). Because most inmates reported multiple conviction offenses, they could fall into more than one of these crime categories.

The category of crimes for which inmates were currently convicted were: 15 % for drug-related; 24 % for property crime; 68 % for crime against persons, and 17 % for crime against public order. On the average, inmates had been convicted for a total of 2.5 crimes. Minimum sentences were 0 - 5 years for 49%; 6 - 10 years for 22%; 11 - 20 years for 11%; 21 - 30 years for 5%; 31 - 60 years for 3%; and life for 10%. The average length of time spent in their current facility was 3.6 years.

Of the 714 staff sampled, 265 (186 men and 78 women) returned the survey. Assuming that an estimated 10 staff members did not receive their surveys, the actual return rate was approximately 39%. All staff surveys were usable. The number of surveys received from the facilities were: 108 from men's maximum security A (34 % return rate); 67 from men's maximum security B (35 % return rate); 51 from men's minimum security (34 % return rate); and 39 from the women's facility (62 % return rate.)

Of the 265 responding staff, 186 (70%) were male and 78 (30%) were female. For age groups, 7% were 18 - 25, 36% were 26 - 36, 41% were 37 - 47, and 16% were 48 and older. Staff racial groups were: 88% White; 7% African American; .8% Native American; 2% Hispanic; and 2% other. The educational levels of staff were: 19% with high school; 3% with a GED; and 78% with college. Their job assignments were: 6% administrative; 28% unit management, 53% security, 10% treatment and 3% other. Staff had worked an average of 6 years at their currently assigned job. The average total length of time working in corrections was 8 years.

Reported Rates of Pressured and Forced Sex

One hundred four inmates (20% of 512 responding inmates) answered "yes" to the question "Since the time you have been in a __ Prison, has anyone every pressured or forced you to have sexual contact ...against your will?" The number of "target" inmates for each facility was 46 (23 %) at men's maximum security A (23 %); 38 (22 %) at men's maximum security B; 17 (16%) at men's minimum security and 3 (7%) at the women's facility. The actual rate for the men's minimum security facility may have been as low as 9% because several victims described incidents that had occurred at facilities A and B as the most serious. It is not known if additional incidents occurred for these inmates in the minimum security facility. The incident rate for all male facilities combined was 22%.

Estimated Rates of Pressured and Forced Sex

Of inmate respondents, 387 (76%) said that had heard of at least one incident in their current facility. On the average, they had heard of 12 different incidents. Of staff, 215 (81%) had heard of at least one incident. The average number of incidents heard of by staff was 8.5. When asked to estimate the percentage of inmates who had been pressured or forced into sex, inmates on the average said 19%, remarkably close to the reported rate of 20%. The average staff estimate was 15%. See Table 1 for a comparison of inmate and staff estimates for each facility.

Insert Table 1 About Here

Target Inmates and Description of Incidents

Sample Characteristics. For age categories of target inmates, 19% were 18 - 25, 51% were 26 - 36, 27% were 37 - 47, and 4% were 48 - 58. Racial groups were: 78% White; 18% African American; 2% Hispanic; and 4% other. For sexual orientation, 70% were heterosexual, 26% were bisexual, 2% were homosexual and 2% were other.

The most common crimes targets had ever been convicted of were: rape (23%), aggravated assault (20%), murder (18%), sexual contact with a child (18%), robbery (18%), grand theft (15%), damage to property (14%), D.W.I. (13%), possession of a concealed weapon (13%), possession of a controlled substance (13%), burglary (11%), escape (11%); and committing a crime while armed (11%). Because most targets reported multiple conviction offenses ($m = 2.7$), they could be counted in more than one crime category.

Over one third of the target inmates (37 or 36%) had been convicted in their lifetime of at least one sex offense--typically sexual contact with a child or rape. This percentage was higher than the overall percentage of sex offenders housed in the four facilities (430/1,950 or 22% for February, 1995 from prison system records).

The categories of crimes that inmates were currently convicted of were: 14% for drug offense; 23% for crimes against property; 72% for a crime against persons, and 17% for crimes against public order. The minimum sentences for target inmates were: 0 - 5 years for 40%; 6 - 10 years for 24%; 11 - 20 years for 18%; 21 - 30 years for 5%; 31 - 60 years for 3%; and life for 15%. The average time incarcerated in their current facility was 4.5 years.

Target inmates, on the average, had experienced 9 episodes of pressured or forced sex. One third said that it had happened only once; 24% said 2 - 3 times; 14% said 4 - 5 times; 15% said 6 - 10 times; 4% said 11 - 20 times; 6% said 20 - 50 times; and 4% said 50 to 100 times. When asked how many different persons had done this to them (over time, not only in a single incident), the average response was 4.4. Thirty

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seven percent of targeted inmates reported that their experience(s) happened with only one person; 28% said it had happened with 2 - 3 different persons; 16% said 4 - 5 persons; 9% said 6 - 10 persons; 9% said 11 - 20 persons; and 2% said 21 - 50 persons.

The 101 male and 3 female targets were asked to answer questions about the time they were pressured or forced to have sexual contact. If more than one incident had occurred, they were to describe the most serious or harmful incident. Eleven inmates (all male) who answered only a few questions about the incident were placed in the "unknown" response categories in the descriptions that follow.

Sexual Outcome. The targeted inmates were classified by the most serious sexual outcome resulting from the incident. Table 2 contains the distribution of inmates by sexual outcome for the total sample, the total target sample, and for each facility. Of the 104 targeted inmates, 14% were able to avoid the attempted sexual interaction. Fifteen percent experienced touching of their sexual parts or were made to touch the sexual parts of the perpetrator, but had no other acts occur. Eight percent had to give or receive oral sex, but did not engage in more intimate acts. One half of the targets engaged in anal sex (or anal/oral/vaginal sex) and 1% engaged in vaginal sex. The highest incidence of anal sex occurred in the two maximum security facilities. The largest percentage of incidents at the men's minimum security involved only attempts. The small number of incidents at the women's facility involved only an attempt and genital touching.

Insert Table 2 About Here

Number of Perpetrators. When inmates were asked how many persons had perpetrated the incident, the average answer was 3. For male inmates, 50% said that only one perpetrator was involved, 30% said 2 - 3 persons, 10% said 4 - 5 persons, 6% said 6 - 10 persons, and 4% said 14 - 26 persons. For the 3 female inmates, one incident had involved 1 perpetrator and two incidents involved 3 - 4 perpetrators.

Sex of Perpetrator. Overall, 91% of the inmates reported that men had perpetrated the incident; 4% reported female-only perpetrators, and 5% said that both men and women were involved in the incident. Considering only male inmates, 93% reported male perpetrators, 2% had female perpetrators, and 5% had both male and female perpetrators. Of the three female inmates, one reported multiple male perpetrators, one reported a single female perpetrator, and one reported multiple female perpetrators.

Relationship to Perpetrators. Approximately an equal percentage of acquaintance and stranger inmates were perpetrators in reported incidents. Because at least half of incidents involved multiple perpetrators, many incidents involved a combination of acquaintance and stranger perpetrators. One of the most unexpected

findings of the study was that 20% of the incidents involved one or more persons working in the prison. The relationship classification of perpetrators for men is shown in Table 3. For the three female inmates, one incident involved an unknown inmate, one involved both known and unknown inmates, and one involved several persons working at the prison.

Insert Tables 3 & 4 About Here

Perpetrator Tactics. Overall, 10% of the target inmates yielded to pressure tactics (no force tactics used) and 76% had at least one force tactic used against them. Fourteen percent did not specify the tactics used. Table 4 shows the tactics used in incidents for male inmates. Threat of harm and fear were the most common strategies used to gain sexual contact with targeted inmates. Over one third of the inmates were physically restrained, and one third were physically harmed during the incident. Of the female targets, one was physically restrained and harmed, one was verbally pressured and intimidated by size, and one was threatened by harm.

Description of Incidents. Seventy-two inmates (69% of target inmates) wrote a description of the incident. Based upon these brief written accounts, at least 30 inmates (42% of inmates who wrote descriptions or 29% of target inmates) were the victims of "gang rape"--a situation in which two or more persons used a force tactic to have anal sex with the inmate. Some verbatim examples follow. The original spelling and grammar have been preserved.

I was put in K-unit in D & E. A black inmate wanted to talked to me by his room. As I approached his room. I was pushed in the back by some-one, I tried to fight but there was 3 or 4 of them. Some one struck his dick in my butt and I got out of there and thought about killing myself for allowing something like that to happen to me.

The time that was most disturbing was in the gym bathroom. I was hit in the mouth and had a shank (homemade knife) put on me. I was orally and anally assaulted by 3 blacks, while 4 of their buddies kept a look out.

Was attacked from behind & the side by 3 people. Got the hell beat out of me. Busted my head, 3 ribs, nose & a foot. Swollen eyes & a busted up mouth. Then was held and sodomized twice, and left to lay there.

Two inmates came into my room and told me to give it up. When I refused they started hitting me. When I still refused they pulled a knife and threatened to kill me. They made me perform fellatio on one of them while the other sodomized me. Then they switched. Then one of them performed fellatio on me and told me if I told I would die. It happened a few times so I checked into protective custody.

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I was in my room. 6 guys rushed me. They stabbed me in the back and raped me. They left. I told the guard. He laughed and walked away.

One inmate wrote how threats were used to obtain anal sex:

The person told me that if I did not do what he wanted he would make life here bad for me. He made me suck on his penis and after doing this for about a week, he wanted more. He and his friends made me bend over the desk and they took turns going in me from the back. I wish something could be done. This has happened more than once for me.

Some inmates reported incidents of forced oral and anal sex with their cellmate:

I had a roommate who told me he would kill me if I didn't let him have anal sex. He pinned me to his bed, and put all his weight on my legs with them in the air.

Sargeant moved me into a cell which was already occupied by one inmate, who later that night turned homosexual on me, and frightened me into masturbating him. It happened 2 more times, by 2 different inmates, each at different times.

Several inmates described incidents which were categorized as "attempts" or situations in which the perpetrator action was prevented. These descriptions underscored the traumatic nature of the incidents, even if sexual contact was limited. In some cases, the target inmate resorted to physical aggression to warn or fight off the perpetrator. In a few incidents, the targeted inmate ended up with a misconduct report for defending himself. Some examples are:

He came in the shower (2-man shower) and reached for my genitals and I backed off and knocked his hand away from me. then he said he wanted me to touch him and have oral and/or anal sex with me in the shower. I put my towel around me and told him I didn't want him to even looking at me and if he tried this again I was going to knock him out. Later he told me he was going to tell staff what he thought he know about my crime and he was going to make some up and tell them I'm the one who done it, not him, if I said anything to staff.

He was always winking, blowing kisses and always trying to talk me into letting him give me a blow job. Until one day when he grabed ahold of my penis and said I want you. Up until then I let it ride but after dinner that night I caught him by the tennis court where no guards could be and I smiled said "so you want me and when he said yes I plant my foot upside his jaw and left him laying on the ground and that put a end to it.

He asked me to give him a blow job, I punched him in the jaw.

I was playing basket ball and this guy I didn't know touched my ass and I turned around and punched him. I kicked his ass & was put on room restriction.

Several inmates came up to me in gym and told me they were going to fuck me in the ass, we all got into a fight, that happen twice, until they found out I would fight every time and they finally gave up. and went to someone that was weaker, but I still got written up for fighting even though I was defending myself from assalt, pretty fuck up ha!

Several inmates gave descriptions of incidents in which prison staff actively participated in acts ranging from fondling to oral and anal sex. Some examples are:

Female officer "pat" searched me, ending the search by touching my testicles through pants saying "he's got balls" in snide tone.

A male guard grabbed my penis after a shower and told me if I said something I'd loose in the end! The next time he grabbed my butt at the same time rubbing my butt and chest than I pushed him away! And he tried it again but I grabbed both his arms and told him I'd hurt him if he did it again! He just laughted & said he'd get me before its over with--blew me a kiss and left.

Once while I was sleeping at night a male guard told me the he wanted me to give him head until he got hard then told me that he wanted to screw me and if I didn't cooperate that I would get taken to the hole and get a misconduct written on me and no one would believe me if I told.

4 inmates and I guard knocked me down by the rear weight pile. Guard went first. Forced his cock in my mouth while the brothers pumped my ass.

One inmate wrote that he was victimized by both staff and inmates:

I'm scared easily and if I don't do what im told I usually get hurt! With the staff, they tell me if I don't do anything with them that they would make shit up to get me into trouble! And with the inmates it was force and nothing was said! They just did it! (please help)

Several inmates wrote that although inmates were the perpetrators, prison staff either "set up" the incident or stood by indifferently as it took place. Two examples are:

Because of lack of correctional officer observance and watching for a person known to intimidate and carry out forced sexual stuff. A black officer was indiffernt to myself (white, small stature). I was almost dragged into a room at D & E and raped. A fellow inmate stood up and more or less prevented this from happing. I belive honestly that the guard knew exactly what was happening

The guard let them in my cell, put a knife to my neck, raped me & left saying they would return again and if I told anyone they would kill me.

One target inmate offered this general perspective on the dynamics of pressured and forced sex in the system:

In 1989 3 cats fuck this one guy, they split his asshole apart, he had to get stitches. Do you think he was willing? Ya, he was willing to have his ass split. Not! If a person is kinda small. has long hair he usually has a choice #1 he can fight #2 he can find a Daddy for protection #3 go to p.c. If he fights he still might get fucked, but for the most part get left alone. What it is-is this take all the little cats and keep em away from rest of population. Also a person got to have some heart, heart, thats the biggest thing. Only the strong survive in here so it don't matter what they try to do to stop sex assault, its still gonna happen. I have learned to look the other way when Im not involved. I came here by myself and Im leaving by myself.

Emotional Consequences. The emotional impact of the incident was very negative for most but not all of the targeted inmates. On the average, inmates gave a rating of 6.3 for the immediate impact of the incident. This mean was very close to the end-point 7 labeled "It Was Very Upsetting." The 7 number scale was apparently an inadequate measure of the degree to which the inmates were upset. Seventy-seven percent marked the highest choice (7) and often emphasized their response with circles, underlines, stars, and higher numbers. Only two percent of the inmates marked the lowest choice (1), indicating that the incident was not upsetting. Male and female targets scored in the same range of the scale.

The long term effects of the incident received a mean rating of 5.5--close to the end-point 7 labeled "It Has Had a Severe Bad Effect upon Me." Fifty-four percent marked the highest possible 7 response, whereas 11% marked the lowest possible 1 response. Men and women had similar scores on the scale.

When asked to report what kinds of bad effects inmates had experienced, 13% marked "No bad effects have occurred." Eighty-seven percent of the target inmates reported at least one negative consequence. The most common effects experienced by at least 70% of inmates were feelings of distrust and nervousness around other people. Over 60% experienced depression and 38% had thoughts of suicide. Physical injuries were reported by 17%. At least 24% marked the "other" category, with at least 6% writing that they wanted to take revenge on or kill the perpetrators. One victim of gang rape wrote in the "other" line: *I've become the victimizer. I wanted to hurt people in the same way. It make's me feel like I'm getting even. I've gottin help and realize I have been wrong.* Another write-in consequence was racial prejudice--usually against blacks. Another inmate wrote in that some inmates have committed suicide as a

consequence: *People have hung themselves because they get tired of rape & resold for cigarettes, Made to do this in front of every one.*

Table 5 shows the percentages of male inmates reporting the various consequences. The three female targets all reported distrust and nervousness. Two worried about a reoccurrence and had bad dreams. One suffered depression, but none reported thoughts of suicide.

Insert Tables 5 & 6 About Here

Disclosure of the Incident. A majority of target inmates (55%) did not tell anyone about the incident. Table 6 shows the percentages of male inmates who told various types of people about the incident. Only 29% of male inmates told at least one staff person in either an administrative or non-administrative position. Of the three female inmates, one told no one and two reported it to prison administrators and family and friends outside of the prison. One also told a medical person and another inmate.

Seventeen inmates who had not told anyone gave a written explanation. According to a frequency count of all distinct reasons, the number one reason for not telling was fear that the perpetrator(s) would kill or injure them. One wrote: *Because I am scared for my life. If you snitch or tell on another inmate in here you will be stabbed or have a very bad accident.* Another wrote: *I was told not to or I would end up in the hospital or in the morgue.* One inmate explained: *Because when you tell on another inmate, you put your life at risk. They know who tells on who and why, so if you want to keep your head in order you shut your mouth and hope it don't happen again.*

The number two reason was that inmates felt that staff would not believe them, would laugh at them, or would not do anything about it. One wrote: *Would not have done me no good cause who would believe an inmate don't all convict's scam and lie? Thats how the staff treats every inmate.* Another wrote: *Because no one here cares what happens to us, (trust no one).* The third reason was that the inmates were too embarrassed or ashamed to tell anyone. Another reason offered by a small number of inmates was that reporting the incident would simply cause more problems and make prison life hard. One target of a guard perpetrator wrote: *The guard would make my time hard! I just want to go home! Not get write ups for no reason by this gaurd, lose good time and stay here longer.* Finally, several inmates wrote that they did not report the incident because they did not want to go into protective custody.

Inmate/Staff Prison Protection Ratings

The total sample of 516 inmates and 265 staff were asked how well the prison system protected inmates from pressured and forced sex. Inmates gave an average rating of 2.8--a negative score on a 7-number scale where 1 indicated "Definitely No" and 7 indicated "Definitely Yes". The lowest choice (1) was marked by 44% of all inmates. Protection scores for each facility were a reflection of the actual incident rates reported there. Male inmates in maximum security facilities A (23% incident rate) and B (22% incident rate) rated the protection in the negative range (2.5 and 2.6, respectively). Male inmates in the minimum security facility (9% - 16% incident rate) rated their facility at 3.3 in the lower midrange of the scale. Women (7% incident rate) gave their facility a rating of 4.4--a score approaching the positive range of the scale. A one way analysis of variance showed that the means differed significantly, $F(3, 501) = 12.05$; $p < .0001$. According to Duncan's paired comparisons ($p < .05$), the protection scores for facilities A and B did not differ, but were significantly lower than ratings for the minimum security facility, which were significantly lower than ratings for the women's facility.

The average protection rating given by staff was 4.4--approaching the positive range of the scale. Only 6% of staff marked the lowest choice (1). An ANOVA indicated that the mean ratings for each facility differed significantly, $F(3, 257) = 7.75$; $p < .0001$. Subsequent paired comparisons tests indicated that the staff's protection ratings for the maximum security facilities A ($\bar{m} = 4.4$) and B ($\bar{m} = 4.3$) were significantly lower than staff's ratings for the men's minimum security facility ($\bar{m} = 5.3$) and for the women's facility ($\bar{m} = 5.7$).

Inmate/Staff Solutions

A total of 423 inmates (83% of the sample) wrote an answer about good ways to prevent sexual assault. Written responses were transcribed and divided among three raters who did a frequency count of distinct solution ideas. The three raters then met with the first author to compare categories and agree on definitions for what categories could be combined. The raters then calculated the overall frequency that each solution was mentioned for the total inmate sample. The same procedure was used to analyze answers received from 205 staff (78% of the sample).

The inmate solutions are listed below in order of highest to lowest frequency:

1. Keep predators segregated--separate young, new inmates from older inmates, others from sexual offenders, nonviolent from violent, heterosexuals from homosexuals, keep racial groups apart. (n = 89)
2. Have conjugal visits with spouse, lover. (n = 70)
3. Teach inmates prevention, self defense, how to avoid blind areas and perpetrators. (n = 36)

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4. Have more staff and supervision. (n = 31)
5. Have stricter and faster penalties for perpetrators. (n = 29)
6. Have single cells. (n = 25)
7. Have better trained and more caring staff. (n = 13)

Others: There are no solutions, kill perpetrators, give furloughs, have counseling, allow love dolls, provide more porn, provide less porn, form protective inmate pairs, don't go to prison. (n < 12 each)

A majority of inmates believed that young, non-violent offenders should be segregated somehow from other types of inmates, such as by having their own wing or a separate facility. Many felt that the current screening system put these inmates at risk. Two inmates wrote:

In the screening process here, young kids are being thrown into the regular population that have no idea what prison life is all about. These kids stick out like they have a sign on them saying "I am new". They are then pounced upon by different kinds of inmates. They are then put into a position where any money they earn or have sent to them is taken. Then there are those who get forced into other situations involving sex and other things.

When an offender is new here, they are assigned a living location by unit staff. Sometimes a new (especially a young one) offender will be assigned to a cell with a known abuser (molester). When an offender requests a room change they very seldom are granted one, thus, this usually results in a sexual assault. Once an offender is sexually assaulted they are usually an "easy target" for other sexually active inmates to prey upon unless they request to be assigned to the protective custody unit.

Numerous white inmates felt that black inmates were likely predators for young new white offenders:

Don't put short time (non violent) offenders in the same facilities or units with violent offenders. At the risk of sounding racist, the #1 best way to prevent a majority of sexual assaults is to segregate white and black inmates, fact being that most white people are either naive, trusting or intimidated by black people and blacks are always quick to jump at the opportunity to harm a white person that they think won't do anything back to them.

A majority of inmates viewed conjugal visits as a way of eliminating the sexual frustration that may lead to sexual assault. One offered a concrete plan:

Contract trailer visits for inmates who stay out of trouble for 30 days or so. Allow the inmate to have 1 two hour trailer visit every 30 days he stays out of trouble. Rather it is a male or female who is visiting the inmate.

One consistent theme in inmate answers was to lock up and punish predators instead of placing victims in protective custody:

Lock up the sharks - with a little observation officials could tell who predators are! They should be locked up! Instead the weaker inmates have to check into p.c.

Inmates that are attacked usually check into p.c. This is backwards the perpetrators (attackers) need to be taken out of general population for long, long periods of time. This will provide a safer environment for those inmates that do not wish to attack other inmates.

Identifying & segregating those who pose the threats, Instead of PCing (protective custody) those attacked. PC gives a reputation of weakness that will always be preyed upon thereafter. This is prison after all.

Some inmates perceived that the prison administration was purposely putting inmates at risk to some predator inmates:

The prison administration intentionally puts weaker inmates with predatory inmates to appease them into not making trouble. Just because the weaker inmate agrees to it doesn't mean he's really saying yes. Most fear being injured and if you report the assault you can't stay in gen. pop.

Many inmates offered advice to new incoming inmates:

Fight if someone puts their hands on you. Keep with a friend. Stay alert and know problem inmates and problem areas. (Showers, blind spots, gym-bathrooms etc) to avoid them.

Avoid games and situations that could put you in that position. Prepare yourself mentally and physically for such situations. Keep your mouth shut and mind your own business.

An innovative solution offered by one inmate was to have a group of trusted older inmates give an orientation program to new inmates to explain how to avoid sexual assault situations. Another inmate suggested that trusted, older inmates be designated as "safe" friends for new inmates. The older inmates could teach the new inmates what to avoid and how to look out for themselves.

Inmates viewed overcrowding and placement of more than one inmate per cell as a big contributor to sexual assault:

Abandon "double celling" or "multiple-celling" types of cellhouses. From my personal observations...it seems that the majority of assaults and/or sexual assaults occur inside of cells. The current situation in the _____ creates extremely heavy traffic on the cellhouse tiers at certain times of the day. This makes it difficult for one correctional officer to monitor the movements of up to 75 inmates and discern whether an inmate has gone into a cell where he is not assigned to live.

The most frequently mentioned staff solutions are as follows:

1. Hire more staff and increase supervision. (n = 79)
2. Use better screening and roommate pairing to segregate predators from potential victims; Have intensive management of offenders. (n = 57)
3. Have single cells. (n = 37)
4. Have better communication with inmates with better trained and more caring staff. (n = 35)
5. Have stricter, faster penalties for perpetrators. (n = 29)
6. Use protective custody for victims. (n = 29)
7. Teach staff and inmates about sexual assault consequences, prevention, inmate techniques of self defense, how to avoid games, debt, blind spots, likely perpetrators. (n = 22)
8. Get rid of blind areas; Use electronic monitoring; Have single showers and bathrooms. (n = 9)

Others: More activities and labor programs for inmates, reduce store items, castrate perpetrators, there are no solutions, counseling for victims, conjugal visits, better prisoners, stay out of prison. (n < 6 each)

A majority of staff believed that hiring more staff to enable more supervision was the best way to prevent sexual assault. Many clearly felt overwhelmed by the demands upon them to monitor so many inmates:

Have more staff on duty. We are terribly under-staffed for the job we are asked to do. Many times we're monitoring yard activity of 200 - 300 inmates with 3 - 5 yard staff. Many places such as the library are staffed with 1 officer and have a capacity of 30 - 40 inmates. There is simply not enough supervision!

More staff when its you & one other on the yard with 400 plus inmates its hard to be everywhere.

Constant and more security – We are short staffed!

In order to help reduce the risk of sexual assaults in the prison systems, I believe it would be beneficial to increase the ratio of staff to inmates. If there are fewer opportunities for inmates to be alone in a secluded area with no staff supervision, the chances of sexual assaults would greatly diminish. If the spending allowance does not permit an increase of staff, perhaps radio monitoring equipment could be placed in the vulnerable areas.

The following are but a few examples of the comprehensive suggestions offered by staff:

In my opinion, it is difficult to prevent all sexual assaults in prison, when staff is outnumbered 15 or 20 to one we cannot be everywhere. ...When inmates want to accomplish something we do our best to prevent it, but, in my opinion, we are only successful occasionally. When inmates go to p.c. for protection often they are assaulted even there. More staffing, present staff being alert and encouraging more open communications between staff & inmates. Many times I think staff put off inmate concerns as sniveling. Also, I think having more for inmates education & making it mandatory for them to work or go to school eight hours per day. I do not feel conugal visits are the answer! This will only cause additional problems.

Segregate aggressors from gen. population. Place affected inmates in protective custody (PC). Take away good time from repeated aggressors. Educate all inmates during Intake-Admissions Orientation about pressured sexual activity, it's pitfall (ie AIDS, Hep B) and consequences/sanctions enforced on violators.

It is very easy to tell if an inmate is going to be a good candidate for a sexual assault when he first comes into the system, i.e., young, scared, baby face, long hair, easily intimidate. This type of inmate gets set up and pressured for sex, store, goods, & money. By placing younger inmates together and keeping them away from the older ones would help to prevent it.

Stop double celling. Screen inmates thoroughly before placement or in a housing unit--don't put weak & strong inmates together. Be more aware of gang associate problems & place inmates on housing units accordingly. Bring back vocational programming & give inmate's more to occupy their time.

Have a way/place to put inmates who are being pressured/threatened away from abuser without having to segregate from all. Punish abusers, i.e., isolate them. Talk to new commitments--explain dangers and be prepared to move them from danger when it rears its ugly head if they request help. Educate-Isolate-Punish.

Put the inmates who constantly assault other inmates in seg., instead of P.C'ing the victim. At this facility, we have approx. 5 or 6 inmates who constantly pressure/rape other, weaker inmates, and they never got locked up. ... We could easily empty out seg/p.c. by locking up the veteran sexual assaulters/pressurers/rapists. It seems to me we're doing this all backwards.

Change the attitude/concept of "snitches", both staff & inmate. Separate inmates by age, length of sentence, type of crime. Staff needs to respond immediately forcefully & intense disciplinary results toward aggressive predatory type inmates which will violate some inmate rights. Reactivate under strict guidelines work farms, road crew, hard physical labor for the younger aggressive inmates.

Make the inmates more aware that staff can be trusted if confided in. Give line staff that actually work close with inmates more support & believe in them rather than letting the upper administration people who never work with inmates make all the rules and decisions.

Equip all buildings with automatic locking doors. Control no. of people allowed in showers at one time. Use lighting in rooms which allows you to do checks w/o turning on the overhead light or using a flashlight.

Roster of known perpetrators published like bad check writers are in the public. Potential victim would be put on notice of who to look out for and perpetrators may be discouraged by peer pressure.

Staff also had advice for new inmates:

Stay in open areas, be aware, Don't make promises/say maby to get pressure off your back now. Don't engage in voluntary sexual behavior, stay in contact with staff. Report pressure situation that are serious. Be aware of inmate games & Cons and Don't play.

Finally, some staff and inmates believed that prison sexual assault cannot be prevented. One inmate wrote: *Sexual assault can't be stopped in prison anymore than drugs or any other violence...No one is going to stop sex in prison or anywhere else.* A staff person wrote: *It will happen no matter what steps are taken--We are here for Security- not babysitters who can watch every inmate at all times.* Another wrote: *Until our society (in prisons) changes, our present inmates will have to deal with (sexual) this type of behavior. We could hope that it would act as a deterrent, so when an inmate acts out against the law just maybe he will remember the way it was in the joint. Maybe we should leave well enough alone.*

Summary

The major finding of the study was that 20% of inmates responding to our survey reported the experience of being pressured or forced into sexual contact in a state prison facility. Of four facilities studied, the highest percentage of incidents occurred in the male maximum security facilities (23% for A and 22% for B). These higher rates are not surprising given that the facilities housed relatively large populations of inmates with more serious offenses and longer sentences. In comparison, the rate for the men's minimum security facility was at most 16% and possibly as low as 9%. (Several inmates reported incidents that happened at a maximum security facility.) The overall rate for male facilities was 22%. The lowest rate was found in the women's facility where only 7% of female inmates reported an incident. The lower rates in the men's minimum security and women's facilities most likely reflected the smaller inmate population size, the presence of more non-violent offenders, and management practices (rated higher by inmates of these facilities).

The accuracy of the 20% incident rate must be considered in light of the 30% return rate of the survey. Was it possible that every inmate in the system who had experienced pressured or forced sex returned their survey to us? If so, then the actual incident rate for 1,800 inmates was only 6%. However, we believe that the 20% rate was representative of the entire prison system. First of all, the 22% and 23% rates found for the two men's maximum security facilities are reasonably close to the 28% "sexual aggression" rate reported in a New York State prison by Lockwood, 1980. This study was similar to ours in that it documented a range of unwanted sexual activities, including attempts at contact. However, our anal/oral sex rate (12%) was close to the 14% rate documented by Wooden and Parker (1982). Their study was similar to ours in that they used an anonymous survey to measure the percentage of inmates who had been pressured into having sex against their will.

Second, nearly identical incident rates were found in the two separate maximum security facilities. The results from these two facilities serve as a replication for each other. As further evidence, the estimates of incident rates (including estimates by non-targets) from all responding inmates in each facility were close to the reported incidents for that facility. In addition, staff estimates of incident rates in facilities were quite close to the reported rates. The closeness of estimated and reported rates from inmate and staff observers suggests that residents had a general awareness of the level of nonconsensual sexual activity in each facility.

Finally, we think that it was a difficult, risky decision for target inmates to return a survey to us. We concur with Eigenberg (1994) that it is not easy for inmates, especially men, to tell unknown strangers about an event as personal and traumatic as forced sex. Although some target inmates were very willing to provide details of the incidents, many simply wrote that it was too painful to explain. We know that half of the target inmates had not told anyone about the incident until they responded to our survey.

Inmates were also very concerned about having their survey answers intercepted by prison staff or other inmates. Although we promised inmates that their surveys would be kept confidential, many informed us that they doubted our ability to do so in a prison environment. Unfortunately, they were correct in some instances. At one maximum security facility, staff who were unaware of the study procedures required that inmates put their names on the sealed survey envelope that was to be mailed to us. Although the problem was corrected in a few days, we guess that many inmates felt at risk when and if they turned in their surveys. One target inmate who sent his survey in after he was released explained that he did not want anyone looking at his responses and using it as an excuse to delay his release. Given these concerns, we think that there were inmates who had experienced nonconsensual sex who chose not to return the survey.

Another question is whether inmates were being truthful when reporting nonconsensual sexual experiences. Although it is likely that some inmates falsely reported assaults to "get the prison in trouble", we believe that that nearly all inmates were reporting actual incidents. We did exclude five victim surveys which seemed implausible, but we judged the remainder to be consistent and appropriate in response patterns. As discussed above, we believe that inmates had a greater incentive not to report victim experiences to us.

A second important finding of the study is that the sexual dynamics and outcomes of incidents varied considerably. The 20% incident figure was not a "prisoner rape rate", but reflected a range of acts including attempts at contact (reported by 3% of the total inmate sample), genital touching (3%), oral sex (2%), vaginal sex (.1%) and anal or anal/oral/vaginal sex (10%).

The results of the study suggested that the most serious incident reported by targets could be placed in one of at least five non-overlapping categories. The first category is single perpetrator pressured or forced sexual touch for situations in which an inmate was "pursued" by another inmate who verbally requested sexual favors and sometimes touched or grabbed the sexual parts of the target inmate. The perpetrator's verbal requests would sometimes escalate into threats or blackmail. In many of these cases, the inmate was able to prevent more sexual contact by avoidance, refusals, defensive threats and fighting. At least 23% of the target incidents could be placed in this category.

Single perpetrator forced anal-oral sex occurred when an inmate encountered a single inmate perpetrator who used a force tactic (intimidation with size, threat of harm, physical restraint, physical harm, weapon) to gain high levels of sexual contact. A typical example would be when an inmate was forced by a stronger cellmate to engage in oral or anal sex. At least 12% of our target sample reported a completed and 4% reported an attempted act in this category.

Multiple perpetrator forced anal-oral sex occurred when an inmate was forced to engage in high levels of sexual contact with a group of inmate perpetrators. These events--tantamount to gang rape--typically involved a "surprise attack" whereby a group of perpetrators suddenly appeared, overpowered and raped the inmate. About 26% of targets reported a completed and 8% reported an attempted act in this category.

Multiple perpetrator forced anal-oral sexual service occurred when an inmate was forced to give sexual services to a group of inmate perpetrators. In these incidents, an inmate would yield to frequent demands to engage in sex with varying groups of perpetrators because he feared he would be harmed if he resisted. This type of incident is similar to Donaldson's (1993a) concept of "survival-driven sex" which occurs as a consequence of an initial forced rape. Only 2% of inmate incidents fell into this category.

The final category is authority figure pressured or forced sex. In these situations, inmates engaged in nonconsensual sexual activities (from touch to anal/oral/vaginal sex) with prison staff who used their position of authority to gain control over the inmate. At least 18% of target inmates in our study reported that prison staff were perpetrators or co-perpetrators in their incident. We received additional evidence of staff participation from an ex-employee who stated in a letter that she had had sex with many inmates, and at one time was forced to watch inmates having sex with each other. The remaining 8% of inmate incidents were classified as "unknown" because either the tactic used and/or the sexual outcome of the incident were not reported.

The five descriptive categories are based upon inmates' responses about the one incident that they considered to be the most serious or harmful. For one third of the target inmates, this incident was the only one that had occurred. However, two-thirds of the targets had experienced more than one incident, with nine as the overall average number. Many targets indicated that these additional incidents were repetitions of their most harmful situations. In fact, some inmates made numbered lists of incidents which they considered to be the worst that had happened.

The third finding of the study is that incidents of pressured and forced sex had a profound negative impact upon most of the target inmates. Nearly 90% of target inmates reported significant emotional reactions following the incident, including 60% who experienced depression and almost 40% who had thoughts of suicide. These data confirmed numerous earlier studies which documented symptoms of rape trauma syndrome among sexually assaulted inmates (Cotton & Groth, 1982; Lockwood, 1980; Peeples & Scacco, 1982.)

Another important finding of the study was the low rate of inmate disclosure of nonconsensual sexual acts. Due primarily to fear of perpetrators and lack of trust of staff, only 30% of inmates in our study reported the incident to administrative or non-administrative staff. Over half had told no one about the incident. This fear of

disclosure makes it difficult to identify, treat and protect inmates who have been sexually assaulted.

Another result of our study that may prove useful are the prevention ideas provided by inmates and staff. They both strongly advocated the use of better screening and classification procedures to segregate potential target inmates from potential perpetrators. They agreed that having more staff and supervision, faster punishment of perpetrators, and use of single cells are good solutions. Inmates and staff also agreed that there should be training for inmates and staff on how to avoid sexual assault situations.

However, they had divergent views about two prevention ideas. Whereas inmates believed that conjugal visits would greatly reduce sexual assault, staff seldom mentioned this option. And whereas many staff mentioned the use of protective custody, inmates were adamantly against this practice. Numerous inmates wrote that the perpetrators should be locked up, not the victims. Many suggested that if there must be protective custody, it should be less restrictive than presently structured. Some staff agreed with this position.

Nearly all of the studies cited in this paper contain excellent sections on policies and practices to help prevent prisoner sexual assault. Cotton and Groth (1982) have developed a prevention model which is concisely presented in the review article by Dumond, 1992. One of the newest and most comprehensive resources available is the manual which accompanies the Prisoner Rape Education Program written by Stephen Donaldson (1993a) and published by the non-profit Safer Society Press.

Before concluding our paper, we would like to address a concern expressed by some inmates about the purpose of the study. Many inmates from both the men's and women's facilities wrote comments and letters explaining that most sexual activity in prison environments is consensual. Male inmates explained that there are individuals who willingly give and receive sex in exchange for goods, affection, and pleasure. For many inmates, this activity provides one of the few sources of sexual release and intimacy available in a prison environment. We would like to assure inmates that our intentions were only to document those sexual acts which involved an unwilling participant.

If we were to repeat our study in the future, we would reduce the length of our ten-page questionnaire to six to eight pages to make it easier for inmates to complete. We would replace the PEI with a shorter set of questions which would still give some context for the nonconsensual sex questions. For descriptions of incidents, we would add items asking how long ago the incident occurred, the age of the inmate when it happened, and what was the race of the perpetrators. We would consider adding questions about whether inmates have ever perpetrated acts of sexual assault, recognizing that this would increase the sensitivity of confidentiality needs of the survey.

Our measures for emotional impact seemed inadequate for assessing the extreme upset and consequences felt by victims. We would measure additional consequences such as attempted suicide, prejudice, desire for revenge, and actual aggression enacted against perpetrators or others. Finally, we would add several questions about medical problems, and STDs and AIDS which may have resulted from an incident. According to Fay Honey Knopp (cited in Donaldson, 1993a), the incidence of AIDS for inmates in state and federal prisons in 1989 was 202 per 100,000. Between 1988 and 1989, the number of reported AIDS cases among inmates increased 72%. Thus, victims of forced anal sex in prisons are at increasingly high risk for being infected with AIDS.

In conclusion, we believe that our study has provided much needed information about pressured and forced sexual experiences of male and female inmates in a state prison system in the mid-1990's. The generality of our findings, however, may be limited in that we studied a relatively small, well-managed prison in a rural, sparsely populated state. We guess that the incidence of nonconsensual activity may be higher in prison systems with larger, more crowded inmate populations with greater ethnic diversity. We strongly encourage other social scientists to initiate research in their city jails, juvenile centers and state and federal prisons to add to our knowledge of the causes, consequences and solutions to sexual coercion of prisoners.

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Author Notes

We would like to thank the Department of Correctional Services for giving their cooperation and assistance in conducting this survey and for allowing us to provide a comprehensive summary of results to inmate populations. We would also like to thank the inmates for their participation and for the many useful comments and letters sent to us. Finally, we would like to acknowledge and thank my research assistants who prepared and coded the survey questionnaires: Megan Boese, Damon Buskohl, Jen Beck, Ericka Monson, Chad Mutziger, Julie Nelson, Krista Nevins, Julie Pearson, Sky Peltier, Jay Schuenneman, Mike Sears, and Jill Zikmund.

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Table 1

Comparison of Reported Sexual Assault Rates to Rates Estimated by Inmates and Staff

| Facility | Reported Rate | Respondent Estimates | |
|--------------------------|---------------|----------------------|-------|
| | | Prisoners | Staff |
| Men's Maximum Security A | 23 | 26 | 16 |
| Men's Maximum Security B | 22 | 19 | 19 |
| Men's Minimum Security | 16 | 16 | 11 |
| Women's Facility | 7 | 3 | 8 |
| All | 20 | 19 | 15 |

Note. All numbers are percents.

Table 2
Type of Sexual Act

| | Overall Sample | All Facilities | Targets | | | |
|------------------|----------------|----------------|--------------------------|--------------------------|------------------------|---------|
| | | | Men's Maximum Security A | Men's Maximum Security B | Men's Minimum Security | Women's |
| Most Serious Act | n = 516 | n = 104 | n = 38 | n = 46 | n = 38 | n = 3 |
| Attempt | 15 (3%) | 15 (14%) | 2 (5%) | 5 (11%) | 7 (41%) | 1 (33%) |
| Genital Touching | 16 (3%) | 16 (15%) | 5 (13%) | 9 (20%) | 0 | 2 (67%) |
| Oral Sex | 8 (2%) | 8 (8%) | 4 (11%) | 4 (9%) | 0 | 0 |
| Anal Sex | 53 (10%) | 53 (51%) | 26 (68%) | 21 (46%) | 6 (35%) | 0 |
| Vaginal Sex | 1 (0.1%) | 1 (1%) | 0 | 1 (2%) | 0 | 0 |
| Unknown | 11 (2%) | 11 (11%) | 1 (3%) | 6 (13%) | 4 (24%) | 0 |

Note. Percents are of column n.

Table 3

Relationship of Perpetrators to Targets for Male Prison Inmates

| Relationship of Perpetrator to Target | Percent of Targets Affected (n=101) |
|---------------------------------------|-------------------------------------|
| Known inmate | 59 |
| Unknown (stranger) inmate | 56 |
| Prison worker | 19 |
| "Other" person | 5 |
| Prison visitor | 2 |

Note. Percents sum to more than 100 because many targets reported multiple perpetrators.

Table 4

Tactics Used by Perpetrators in Sexual Assaults of Male Prison Inmates

| Tactic Used by Perpetrator | Percent of Targets Affected (n=101) |
|---|-------------------------------------|
| Threat of harm | 65 |
| Fear caused by size/strength of perpetrator | 53 |
| Persuasion | 38 |
| Held target down | 35 |
| Actual physical harm | 32 |
| Weapon | 28 |
| "Other" tactic | 27 |
| Alcohol | 21 |
| Bribe | 14 |
| Blackmail | 12 |
| Withdrawal of love | 7 |

Note. Percents sum to more than 100 because many targets reported multiple tactics.

Table 5

Effects of Sexual Assaults on Male Prison Inmates

| Consequence of Incident | Percent of Targets Affected (n=101) |
|---|-------------------------------------|
| Distrusts people | 72 |
| Nervousness around some people | 71 |
| Do not like people getting physically close | 63 |
| Depression | 63 |
| Worried about happening again | 60 |
| Worried about reputation as man | 50 |
| Flashbacks / bad dreams | 41 |
| Thoughts of suicide | 40 |
| Physical injuries | 18 |
| No bad effects occurred | 13 |

Note. Percents sum to more than 100 because most targets reported multiple consequences.

Table 6

Persons Informed of Sexual Assault by Male Inmates

| Persons Informed by Targets | Percent of Targets Informing This Category (n=101) |
|-------------------------------------|--|
| Told no one | 56 |
| Friend/family member outside prison | 26 |
| Another inmate | 26 |
| Non-administrative prison staff | 20 |
| Counselor/clergy | 20 |
| Administrative prison staff | 18 |
| Medical staff | 11 |
| "Other" person | 10 |
| Prison Teacher | 1 |

Note. Percents sum to more than 100 because many targets informed multiple persons of their assault.

LETTER FROM CINDY STRUCKMAN-JOHNSON, WITH ATTACHMENTS

June 24, 2003

Honorable Howard Coble, Chairman
Honorable Bobby Scott, Ranking Member
House Judiciary Committee Subcommittee on
Crime, Terrorism and Homeland Security
207 Cannon House Office Building
Washington, D.C., 20105

Dear Representatives Coble and Scott:

This letter is in response to observations and concerns about my research on sexual coercion in Nebraska prisons offered to you by Mr. Harold W. Clarke, Director of the Department of Correctional Services in Lincoln, Nebraska.

As a social scientist, I am indebted to Mr. Clarke for giving me permission to conduct a study on sexual coercion in the Nebraska prison system in 1994. At that time, there was very little information about how frequently sexual coercion occurred in prison settings. My results revealed that 104 (20%) of 516 prisoners (274 men and 42 women) reported the experience of at least one incident of pressured or forced sex since incarcerated in a Nebraska prison. These incidents ranged from acts of failed attempts at sexual contact, to touching of sexual body parts, to completed intercourse brought about by various perpetrator tactics. Over half of the inmates who reported an incident (54 or 52% of 104 respondents) had been forced to engage in oral, anal, or vaginal sex against their will. Therefore, the estimated prison rape rate for Nebraska prisons was 10% -- 54 of 516 respondents. For male inmates, the overall sexual coercion rate was 22% and the rape rate was 11%. For the female inmates, the overall sexual coercion rate was 7% and the rape rate was 0%.

When the media published reports about the study in 1995, they focused on the 20% overall sexual coercion rate and usually failed to note the actual prison rape rate of 10%. The Nebraska DOCS -- who had the foresight and concern for good management to conduct such as survey -- ended up receiving unfair negative attention for having what appeared to be a high rate of sexual coercion. I therefore understand Mr. Clarke's reluctance to embrace some of the findings of my study. However, I have since documented that prison facilities in several other Midwestern states have similar levels of overall sexual coercion and rape rates as found in Nebraska. The rates in Nebraska and Midwestern prisons may represent what is "typical" for small, well-managed prisons in this region. I would expect to find significantly higher rates in larger, harder prisons in other regions of the country.

Mr. Clarke raised several questions about my research findings that I would like to address. It must be said that all social science research is limited by its methods and the difficulties of collecting unbiased information. However, a carefully conducted survey can provide valid evidence and estimates about a hidden behavior such as sexual coercion in prison. Here are reasons why I consider my research results from prisons in Nebraska and other Midwestern states to be valid.

Peer Review

The results of the 1994 Nebraska study received peer review and were published in the prestigious Journal of Sex Research in 1996. (See attached article 1). The article received two national awards for research excellence from the Critical Criminology Division of the American Society of Criminology (1996) and the Society for the Scientific Study of Sexuality (1997). My second study of seven prisons in Midwestern states was peer reviewed and published in a special edition of the Prison Journal in 2000. (See attached article 2.) My research has been extensively reviewed and found credible by many experts in the social science and criminal justice areas.

Consistency of Results Among State Facilities

In 1998, I surveyed ten prison facilities in five Midwestern states. I sent surveys to 7,032 inmates and received replies from 1,788. I surveyed three prisons for men that were the same type of facility as two of the Nebraska prisons in the 1994 study. Similar percentages of men (between 21% and 26%) in these five facilities reported that they had been pressured or forced to have sexual contact against their will since incarcerated in their state. In all facilities, approximately the same percentage of inmates (10%) reported an incident that qualified as rape (forced oral or anal sex). The consistency of these results across different institutions indicates that the rates are a reliable indicator of prison sexual coercion.

Representativeness of Sample

Mr. Clarke asked a fair question about whether my results were representative of all inmates in a facility. On average in my two studies, I received surveys back from about 25% of the men and 54% of the women who resided in the facilities. I cannot definitively say whether my return samples were representative of the total samples. In the Nebraska study, a careful analysis showed that my return sample was similar to the total sample for several important characteristics such as age, most severe crime category, and time in prison. Responses from Black inmates were under-represented. Data from my second survey of Midwestern prisons indicated that my return samples were under-represented by Blacks and a little over-represented by inmates with higher education.

These biases of race and education should not have affected the sexual coercion rates found for these facilities, unless Blacks and undereducated inmates were more likely to be targets of sexual coercion. However, I remain concerned that both of my studies had under-reporting of sexual coercion because victims did not return the survey for fear of being found out by inmates or staff. If this was the case, my estimates of prison sexual coercion in all prisons were probably too low.

Limitations of Self Report and Possibility of Data Faking

Mr. Clarke makes a good point that my data are based on self reports and are not verifiable facts. Social scientists have generally found that self reports are a reliable source of information about adult sexual coercion. I used a method that permitted inmates to send back unsigned surveys that were not examined by prison authorities. This anonymous survey technique has been found to produce more responses than methods that only promise confidentiality.

Mr. Clarke suggests that a self report survey such as mine can be skewed by false reporting. In my opinion, the topic of sexual coercion tends to be taken quite seriously by prisoners and does not invite data faking. As stated above, my greater concern is that victims would fail to report rather than persons would report falsely. Nevertheless, in the Nebraska study, we reviewed all victim reports and eliminated

several that appeared inconsistent. In the Midwestern prisons study, we compared the handwriting of victim reports and uncovered several falsified surveys.

Two of my findings suggest that inmates generally reported sexual coercion accurately. In the Nebraska study, both inmates and staff were asked to estimate how many men in their facility had ever been sexually coerced. In one facility, inmates estimated that 19% of the residents had been sexually coerced. The staff serving that facility gave the same estimate of 19%. The actual report rate by victims in that facility was 22%. In my opinion, this consensus of inmate and staff opinion adds to the validity of the reports received from inmate victims.

In my second study, I surveyed a men's facility that used extensive lock-down procedures for long-term offenders. Inmates had very few opportunities to mix with other inmates and potentially to engage in sexual coercion. As one would expect, only 4% of the men reported any sexual coercion in their present facility, and 0% reported a case that qualified as rape. These results showed that men in this facility did not use the survey to falsely report prison rape.

Bisexuality, Homosexuality and Sex Offenders as Targets of Sexual Coercion

I strongly disagree with Mr. Clarke's contention that "consensual" sexual activity was included in the sexual coercion rate because 26% of the target group identified as bisexuals and 2% as homosexuals. Whereas all men in prison may engage in consensual acts, we asked men only about incidents in which they were pressured or forced into sexual contact against their will. One can review article 1 to read the descriptions of coercion, violence, and emotional damage reported to us by our target group. Mr. Clarke's argument underscores a common bias in the prison system in which bisexual and homosexual who are victimized are often not believed when they report incidents. Others wrongly assume that these men must have wanted to have sex because of their sexual orientation.

Mr. Clarke states that 41% of the 104 inmates who were sexual targets were incarcerated for a sex offense. The correct percentage is 38%. I found in the Nebraska study that sex offenders were over-represented in the target group by at least 10%. As prison lore suggests, sexual offenders may be sought out as victims of sexual coercion. I think Mr. Clarke would agree with me that all inmates, regardless of their crime, deserve protection from sexual coercion in prison.

In closing, I commend all of the efforts to pass the Prison Rape Reduction Act of 2003. I have found that prison administrators, correctional officers, and inmates alike find sexual coercion in prison to be a disturbing and destructive behavior. In their survey responses, hundreds of correctional officers and inmates have advised me that the problem could be controlled by inexpensive measures such as careful screening of cellmates, making regular rounds by officers, and management of known sexual predators. By providing for research, guidelines, standards, and strategic funding, H.R. 1707 could dramatically lower rates of sexual coercion in American prisons.

Sincerely,

Cindy Struckman-Johnson, Ph.D.
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Article 1

The Journal of Sex Research Vol. 33, No. 1, 1996 pp. 67-76

Sexual Coercion Reported by Men and Women in Prison

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An anonymous survey of 1,800 men and women in a Midwestern state prison system revealed that 104 of 516 respondents (20%) had been pressured or forced at least once to have sexual contact against their will while incarcerated. Supporting the validity of this finding, a sample of staff estimated that the sexual coercion rate was 15%. The reported incident rate was 25% for male and 7% for female respondents. Based upon descriptions of worst case incidents, at least 50% of sexual targets had been forced to have intercourse (anal, vaginal, or oral), with one fourth of the cases qualifying as gang rape. Another 10% of targets were subjected to an attempt at forced intercourse. One fourth of targets reported less severe cases of forced and pressured sexual touching. Prison staff were reported as perpetrators in 18% of the incidents. Most targets rated the immediate and long-term effects of the incident as very negative. One half of the targets did not tell anyone about the incident, and only 29% reported the incident to prison authorities. We encourage social scientists to conduct research on prison sexual coercion to aid in treatment of victims, HIV management, and development of prevention strategies.

Sexual coercion of prison inmates is a subject largely ignored by both society and scientists. In 1934, Joseph Fishman, a former inspector of federal prisons, noted that every year large numbers of boys, adolescent youths, and young men are "made homosexual, either temporarily or permanently" by relentless perpetrators in U.S. prisons. In the preface to his book, Fishman wrote, "We are living in a frank and realistic age, yet the subject of sex in prison—so provocative, so vital, so timely . . . is shrouded in dread silence" (p. 5). The silence has largely prevailed throughout the century. According to a review by Dumond (1992), there have been fewer than a dozen studies conducted on inmate sexual assault in U.S. prisons.

This absence of research is conspicuous in the social sciences and sexuality. Although researchers in these fields have conducted hundreds of studies on the sexual coercion of women and children in community settings, few have focused on incidents involving adolescents and

adults in prisons. For example, a special issue of the *Journal of Social Issues* on the topic of adult sexual assault (White & Sorenson, 1992) did not include research on adults assaulted in prison settings. A recent review article on trends in rape research in the *Annual Review of Sex Research* (Muehlenhard, Harney, & Jones, 1992) had no discussion of prison sexual assault. We found that the chapters on sexual coercion in 10 human sexuality textbooks published from 1992-1995 had an average of only two paragraphs on inmate victims.

There are many reasons why social scientists have not studied prison sexual coercion. Lack of awareness of the problem may be the primary cause. Because prison rape happens in controlled institutional settings, official information about sexual assaults is tightly contained. Surprisingly, even the U.S. Bureau of Justice Statistics (Snell, 1993) does not assess or report on the incidence of sexual assault in prisons. Academic researchers who

try to obtain this information may meet resistance from prison administrators (French, 1979; Ibrahim, 1974).

Another reason for the limited research may be social scientists'

Portions of this article were presented at the Annual Meeting of the Midwestern Psychological Association, Chicago, May 1996.

We thank the Nebraska Department of Correctional Services for giving us their cooperation in conducting this survey and allowing us to provide a comprehensive summary of results to the inmate population. In particular, we thank Steven King from the Department of Planning, Research and Accreditation for his assistance. Finally, we acknowledge and thank my research assistants who prepared and coded the questionnaire: Megan Boese, Damon Buskohl, Jon Beck, Ericka Monson, Chad Matzger, Julie Nelson, Krista Nevins, Julie Pearson, Sky Pelzer, Jay Schuenneman, Mike Sears, and Jill Zikmund.

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misperceptions about the nature of sexual coercion in prisons. Cotton and Groth (1982) have written that the myths that surround prison rape have led people to dismiss it as consensual activity. Many people have difficulty understanding how a heterosexual man can be forced to participate in sexual acts against his will. Consequently, they may wrongly assume that forced sex in prison is a homosexual activity, victims have in some way given their consent to participate, and the consequences of assault are not substantial.

It is also possible that researchers have avoided this topic because of prejudice against inmate victims (Ibrahim, 1974). Perhaps social scientists share a public opinion that inmates who have been sexually assaulted are not "true" rape victims. To the credit of years of rape-awareness education, individuals who are raped in community settings are generally viewed by the public as undeserving victims of circumstance. In contrast, incarcerated inmates who are raped may be perceived as deserving of their fate because of the crimes they have committed against society. Although this stance may sound harsh, a recent poll of 400 registered voters in Massachusetts revealed that 50% agreed that society in general accepts prison rape as part of the price criminals pay for wrongdoing (Sennott, 1994).

As a consequence of the lack of research, conclusive data on the prevalence of prison assault are unavailable (Dumond, 1992). In one of the earliest studies conducted in the 1960s, Davis (1982) estimated that approximately 2,000 of 60,000 men (3%) in Philadelphia jails were sexually assaulted each year. Two thirds of the reported incidents were described as completed rapes. After interviewing more than 3,000 inmates, Davis concluded that few young, slightly-built prisoners could escape the "epidemic" of sexual assault in city jails.

A more conservative picture was drawn by Lockwood (1980, 1994), who found that although 28% of 89 inmates interviewed in a New York state prison had been the target of sexual aggression, only one inmate (1.3%) said he was raped. Also reporting low rates, Nacci and Kane (1983) estimated that 2% of 330 inmates in federal prisons had someone force or attempt to force them to have sex against their will (with battery). Only .3% reported a completed rape.

The only other comprehensive survey was conducted by Wooden and Parker (1982) in a medium security prison in California. In contrast to low rates documented in other studies, these authors found that 14% of a randomly selected sample of 200 inmates reported in an anonymous survey that they had been pressured into having sex against their will. The rate was 41% for homosexuals, 2% for bisexuals, and 9% for heterosexuals.

Eigenberg (1994) contended that the prison rape rates found in those major studies may be low estimates of the actual behavior. In her opinion, the stigma of being raped and reporting rape (being a "snitch") causes inmates to underreport rape to researchers. However, even the most conservative estimates of prisoner sexual assault rates translate into a high number of victims among inmate populations nationwide. According to extrapolated estimates made by Donaldson (1993), more than 100,000 persons in prisons and more than 250,000 persons in jails are sexually victimized each year.

The current study was undertaken to gain information about prison sexual coercion that would be relevant for the 1990s. As researchers representing psychology, sexology, and criminal justice, we intended that our results be used by professionals in all areas to increase understanding of this problem. In spring 1994, we were given access to the total inmate population of a state prison system. Given

that previous research has shown conflicting rates of prison sexual coercion, our major goal was to estimate the percentage of inmates who had been pressured or forced to have sexual contact against their will while incarcerated.

Our second purpose was to document the dynamics of sexually coercive incidents. We wanted to find out what types of persons perpetrated the contact, how the contact was made, and what level of sexual activity resulted. Other goals were to assess inmates' emotional reactions to sexual coercion and to determine whether inmates officially reported incidents. Our final purpose was to assess inmate and staff opinions on how to prevent sexual coercion in prison.

Our research plan had two unique features. First, we planned to contrast the sexual coercion rates of male and female inmate populations. To our knowledge, our study would produce the first public data on sexual coercion among adult women in a prison setting. Second, we planned to survey prison staff on their perceptions of the level of coercive sexual activity in the prison. These estimates potentially would serve as a source of validation for sexual coercion rates reported by inmates.

Method

Most prior research on sexual coercion in prisons is based upon personal interviews, a method that can easily result in underreporting this sensitive behavior. We chose to distribute anonymous surveys to the total prison population and a sample of staff, with replies to be returned by mail. The disadvantage of this method is that, as outsiders, we were restricted in our strategies to obtain the participation of inmates. The great advantage of the method is that it protected the confidentiality of the respondents and allowed anonymous and potentially more accurate reporting of sexual victimization (Eigenberg, 1994).

Respondents

The total inmate population consisted of 1,801 persons (1,708 men and 93 women) housed in two men's maximum security facilities (A, $n = 785$ and B, $n = 467$), one men's minimum security facility ($n = 456$), and one women's facility ($n = 93$) in the state prison system of a rural Midwestern state in spring 1994.

The total staff sample consisted of 714 persons working at the four facilities (maximum security A, $n = 318$; maximum security B, $n = 185$; men's minimum security, $n = 151$; women's facility, $n = 60$). The staff sample constituted 48% of 1,496 persons employed at the four facilities. The sample included almost all persons from the occupations of administration, security, and treatment and excluded those in food service, clerical, business, and facilities-management positions.

Measures

Inmate survey. Attached to the survey was an informed consent form that reviewed the purpose, contents, and anonymous nature of the survey. The first survey section assessed demographic information and criminal history. This was followed by the Prison Environment Inventory (Wright, 1985), a 48-item scale that measures perceptions of the rules, safety, support, and personal freedom of the prison environment.

To assess sexual coercion, we adopted Sorenson, Stein, Siegel, Golding, and Burnam's (1987) strategy of assessing general information about overall coercion experience and specific information about one incident. This format was used effectively in our previous study of sexual coercion of college men (Struckman-Johnson & Struckman-Johnson, 1994). The key question was "Since the time you have been in a Nebraska prison, has anyone ever pressured or forced you to have sexual contact (touching of genitals, oral, anal, or vaginal sex) against your will?" Responses were

"Yes," "No," and "Not sure." The number of incidents and persons involved were then assessed.

To obtain estimates of the prevalence of sexual coercion, inmates were then asked "In the prison you are in now, about what percentage of inmates do you think have been pressured or forced to have sexual contact against their will? Circle your best guess." The choices were a row of percentages: 0%, 1%, 5%, 10%, and upward in increments of 10% to 100%. Inmates' prevention ideas were solicited with the free-response question, "What do you think are some good ways to prevent sexual assault in prisons?"

The final section was reserved for the most sensitive items, including sexual orientation. Inmates with sexual coercion experience were asked questions about one "worst case," incident—either the only one that happened or the one time that was most serious or harmful. Inmates first indicated the number and gender of perpetrator(s) and their relationship to the perpetrator(s) from a list of six alternatives (another inmate—stranger to you; another inmate—known to you; a person working at the prison; a person visiting the prison; "other").

Tactics were assessed by asking "What kind of pressure or force was used by this person to have sexual contact with you?" Respondents were to check "all that happened" from a list of alternatives that included five pressure tactics (persuasion—talked you into it; bribe; blackmail; threatened to withdraw their love for you; got you drunk or high) and five force tactics (threatened to harm or hurt you; scared you because they were bigger and stronger; physically held you down or restrained you; physically harmed you; used a weapon). A write-in "other" category was listed.

Sexual outcome was measured by the question "What kind of sexual acts did the person pressure or force you to do? Check all things that happened." Alternatives included attempts (tried to touch you but was prevented), gen-

ital touching (touched your genitals or sexual parts; made you touch his or her genitals or sexual parts), oral sex (engaged in oral sex—gave head, fellatio), anal intercourse (anal sex—in the butt, sodomy), vaginal intercourse (engaged in vaginal sex), and "other." Inmates were then requested to describe in their words what happened.

To assess emotional consequences, inmates were asked "How much did the incident emotionally upset you at the time it happened?" The scale ranged from (1) It was not upsetting to (7) It was very upsetting. The item for long-term effects was "Has the incident had any lasting bad effects on you?" The scale ranged from (1) It has had no bad effect on me to (7) It has had a severe bad effect on me. Inmates were then asked "What kind of bad effects has the incident caused? Check all the bad effects that you have had." The first alternative was "no bad effects have occurred," followed by eight categories of emotional reactions (nervous around some people; don't like people getting physically close to me; don't trust people; worry about my reputation as a man/woman; worry that it will happen again; flashbacks/bad dreams; depression; thoughts of suicide). Alternatives of "have physical injuries" and "other" ended the list.

To assess disclosure, inmates were asked if they had told anyone about the incident and, if yes, to check alternatives for all types of persons told (another inmate; counselor/clergy; teacher; medical person; prison staff—not administrative; prison administrators; friends—family outside of the prison; "other").

Staff survey. The staff survey consisted of a consent form, a demographic page, the Prison Environment Inventory, and measures for estimates of the prevalence of sexual coercion and prevention ideas that were identical to those asked of inmates.

Procedure

About 1,800 packets containing an explanatory note, an inmate survey,

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and a pre-addressed, postage-paid return envelope were transported to prison mailrooms and distributed to all available inmates. One week later, inmates were issued a reminder card to complete the survey. Persons were encouraged to replace lost surveys with a new one from unit managers. The same procedures were used to prepare and distribute 714 staff surveys.

Results

Characteristics of the Samples

Surveys were returned by 528 inmates (486 men and 42 women). Allowing for an estimated 20 inmates who were in transit on the day of survey delivery, the return rate was 80%. As 12 returned surveys could not be used, the final sample size was 516. The number of usable surveys and return rates from each facility were 204 from men's maximum security A (27%), 164 from men's maximum security B (36%), 106 from men's minimum security (23%), and 42 from the women's facility (45%).

Table 1 presents a comparison of the distribution of inmates in the population and the return sample for key demographic characteristics. The two groups were similar for age, most severe crime, minimum sentences, and average time in prison. They differed in that Whites were overrepresented and Blacks were underrepresented in the return sample. Compared to the total prison population, the return sample had a greater proportion of inmates whose most severe crime type was against persons.

Surveys were returned by 264 staff (186 men and 78 women). Estimating that 10 staff members did not receive a survey, the return rate was 39%. The return rates were 34% for the three men's facilities (177 men and 48 women) and 62% for the women's facility (9 men and 30 women). Job assignments of responding staff were 6% administrative, 28% unit management, 53% security guards, 10% treatment, and 3% other. Staff had

Prison Sexual Coercion

Table 1

Characteristics of the Prison Population, Return Sample, and Target Sample

| Characteristic | Total prison population ^a n = 1801 | Return sample n = 516 | Target sample n = 104 |
|-------------------------------------|--|--------------------------|--------------------------|
| Age | | | |
| 17-25 | 27% | 22% | 19% |
| 26-35 | 40% | 44% | 51% |
| 37-47 | 25% | 25% | 27% |
| 48+ | 8% | 9% | 4% |
| Race | | | |
| White | 55% | 67% | 75% |
| Black | 34% | 22% | 16% |
| Native American | 3% | 4% | 0% |
| Hispanic | 7% | 4% | 2% |
| Orientation | | | |
| Heterosexual | — | 86% | 70% |
| Bisexual | — | 11% | 26% |
| Homosexual | — | 3% | 2% |
| Most severe crime type ^b | | | |
| Against persons | 60% | 70% | 75% |
| Drug-related | 11% | 12% | 7% |
| Against property | 21% | 14% | 14% |
| Public order | 5% | 4% | 3% |
| Most severe crime ^c | | | |
| Murder | 14% | 18% | 17% |
| Sex offense | 21% | 24% | 34% |
| Aggravated assault | 7% | 10% | 12% |
| Robbery | 12% | 12% | 11% |
| Drug related | 11% | 12% | 19% |
| Minimum sentence-yr. | | | |
| 0-5 | 50% | 49% | 40% |
| 6-10 | 23% | 22% | 24% |
| 11-20 | 13% | 11% | 13% |
| 21-30 | 4% | 5% | 5% |
| 31-50 | 2% | 3% | 2% |
| Life | 8% | 10% | 15% |
| Average years in present facility | 3.7 | 3.8 | 4.5 |

^aData on the prison population were obtained from Nebraska Department of Corrections records for May 1995.

^bRespondents committing crimes in more than one category are counted only in the most severe category. Categories are presented from most to least severe.

^cRespondents committing more than one listed crime are counted for only the most severe crime. Crimes are presented from most to least severe. Respondents who did not commit one of the listed crimes are not counted for this characteristic.

Table 2

Comparison of Reported Sexual Coercion Rates to Rates Estimated by Inmates and Staff

| Facility | Reported rate | Respondent estimates | |
|--------------------------|---------------|----------------------|-------|
| | | Inmates | Staff |
| Men's maximum security A | 22% | 19% | 19% |
| Men's maximum security B | 22% | 26% | 16% |
| Men's minimum security | 16% | 16% | 11% |
| Women's facility | 7% | 3% | 8% |
| All | 20% | 19% | 15% |

worked an average of six years at their currently assigned job.

Estimated Rates of Pressured and Forced Sex

On the average, inmates estimated that 19% of inmates in their facilities had been pressured or forced to have sexual contact. The average staff estimate was 15%. See Table 2 for a comparison of inmate and staff estimates for each facility.

Reported Rates of Pressured and Forced Sex

One hundred four inmates (20% of 516 responding inmates) answered "yes" to the sexual coercion question. These individuals (101 men and 3 women) are hereafter referred to as targets instead of victims because some were able to prevent sexual contact. See Table 2 for the reported percentage of targets for each facility. The actual rate for the men's minimum security facility may have been as low as 10% because several targets currently in this facility described worst case incidents that had occurred at maximum security facilities A and B. The incident rate for all male facilities combined was 22%.

Targets and Descriptions of Worst Case Incidents

Refer to Table 1 for a comparison of the demographic characteristics of the target and total return samples. Targets were slightly older and had a greater representation of Whites and bisexuals than did the total return sample. A greater percentage of the target sample had committed sex offenses as their most severe crime. We found that when sex offenders who committed murder were also considered, 38 of 104 targets (37%) had a sex offense conviction in their criminal history. The target sample also had somewhat longer minimum sentences and had been in prison longer than the total return sample.

Targets, on the average, had experienced nine episodes of pressured or forced sex. One third reported that it

Table 3

Targets by Most Severe Sexual Outcome of Worst Case Sexual Coercion Incident

| | Targets | | | Total sample n = 516 |
|----------------------|----------------|----------------|------------------------|-------------------------|
| | Men n = 101 | Women n = 3 | All targets n = 104 | |
| Most severe act | | | | |
| Attempt | 14 (14%) | 1 (33%) | 15 (14%) | 15 (3%) |
| Genital touching | 14 (14%) | 2 (67%) | 16 (15%) | 16 (3%) |
| Oral sex | 8 (8%) | 0 (0%) | 8 (8%) | 8 (2%) |
| Vaginal sex | 1 (1%) | 0 (0%) | 1 (1%) | 1 (.2%) |
| Anal sex | 51 (50%) | 0 (0%) | 51 (49%) | 51 (10%) |
| Anal and vaginal sex | 2 (2%) | 0 (0%) | 2 (2%) | 2 (.4%) |
| Unknown | 11 (11%) | 0 (0%) | 11 (11%) | 11 (2%) |

Note: Categories are mutually exclusive. Percentages are of column n.

had happened only once; 24% said 2-3 times; 14% said 4-5 times; 15% said 6-10 times; 4% said 11-20 times; 6% said 21-50 times; and 4% said 51-100 times. On the average, targets had experienced sexual coercion with four different persons.

Sexual outcome. Most targets reported that several sexual acts took place during the worst case incident. An analysis was conducted to classify targets by the most severe sexual act that occurred (Table 3). Of the 101 male targets, 52% were pressured or forced to engage in acts that included anal sex. Three men (3%) engaged in vaginal sex in incidents that involved female perpetrators (reportedly women working at the prison). The three female targets were pressured or forced to engage in less severe acts of genital touching or attempts at contact.

Number of perpetrators. Targets reported that, on the average, three perpetrators had participated in the worst case incident. For male targets, 50% said that only 1 perpetrator was involved, 30% said 2-3 persons, 10% said 4-5 persons, 6% said 6-10 persons, and 4% said 11-26 persons. For female targets, one incident involved a single perpetrator, and two incidents involved three to four perpetrators.

Sex of perpetrator. For worst case incidents, 93% of male targets reported male perpetrators, 2% reported female perpetrators, and 5% said that both men and women were perpetrators. One female target reported multiple male perpetrators, one reported

a single female perpetrator, and one reported multiple female perpetrators.

Perpetrator relationship. As shown in Table 4, more than half of the male targets reported that worst case incidents were perpetrated by other inmates, evenly divided between those known and unknown by the target. Many multiple perpetrator incidents involved both known and stranger inmates. An unexpected result was that 18% of the male targets reported that persons working at the prison had perpetrated the incident. Female targets (not included in the table because of the small sample size) reported that one incident involved an unknown inmate, one involved both known and unknown inmates, and one involved several persons working at the prison.

Tactics. Most targets reported that perpetrators used more than one tactic to obtain sexual contact in worst case incidents. An analysis revealed that 10% of targets were subjected only to one or more pressure tactics

Table 4

Male Targets by Perpetrator Relationship in Worst Case Sexual Coercion Incident

| Relationship of perpetrator to target | Male targets n = 101 |
|---------------------------------------|-------------------------|
| Known inmate | 55 (54%) |
| Stranger inmate | 53 (52%) |
| Prison staff | 18 (18%) |
| "Other" person | 5 (5%) |
| Prison visitor | 2 (2%) |
| Unknown | 7 (7%) |

Note: Percentages add to more than 100 because many targets reported multiple perpetrators.

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Table 5
Male Targets by Tactics Used in Worst Case Sexual Coercion Incident

| Tactic used by perpetrator | Male targets n = 101 |
|--|-------------------------|
| Threatened to harm or hurt you | 61 (60%) |
| Scared by size/strength of perpetrator | 50 (50%) |
| Persuasion—talked you into it | 36 (36%) |
| Physically held down/restrained | 33 (33%) |
| Physically harmed | 30 (30%) |
| Used a weapon | 26 (26%) |
| Got you drunk or high | 20 (20%) |
| Bribe | 13 (13%) |
| Blackmail | 11 (11%) |
| Threatened to withdraw love | 7 (7%) |
| "Other" tactics | 7 (7%) |
| Unknown | 8 (8%) |

Note: Percentages add to more than 100 because many targets reported multiple tactics.

(persuasion, bribe, blackmail, threat to withdraw love, and use of alcohol/drugs) and not to force tactics. The great majority (75%) had at least one force tactic used against them (threat of harm, being scared by perpetrator size/strength, being physically held down, being physically harmed, and having a weapon present). The tactic was listed as "other" or unknown in 15% of the incidents.

Male targets (see Table 5) reported that threat of harm and physical intimidation were the most common tactics used against them. One third of male targets were physically restrained, and nearly

one third were harmed in the incident. Of female targets, one was intimidated by size and verbally pressured, one was threatened with harm, and one was physically held down and physically harmed.

Dynamics. Targets were classified by categories of worst case incidents based upon the relationship and number of perpetrators, tactics used, and sexual outcome. Descriptions provided by 72 inmates (69% of all targets) were used to clarify the events of the incident.

As shown in Table 6, more than one fourth of the male targets were forced to engage in a completed act of intercourse (anal, oral, or vaginal) by two or more perpetrators. Most incidents in this category could be described as a "gang rape" in which a target was physically overpowered by a sudden attack of his assailants. The following descriptions illustrate this type of incident. The original grammar and spelling are maintained.

I was put in K-unit in D & E. A black inmate wanted to talked to me by his room. As I approached his room, I was pushed in the back by some-one, I tried to fight but there was 3 or 4 of them. Some one stuck his dick in my butt and I got out of there and thought about killing myself for allowing something like that to happen to me.

Was attacked from behind & the side by 3 people. Got the hell beat out of me. Busted my head, 3 ribs, nose & a foot. Swollen eyes & a

busted up mouth. Then was held and sodomized twice, and left to lay there.

Two inmates came into my room and told me to give it up. When I refused they started hitting me. When I still refused they pulled a knife and threatened to kill me. They made me perform fellatio on one of them while the other sodomized me. Then they switched. Then one of them performed fellatio on me and told me if I told I would die. It happened a few times so I checked into protective custody.

Some men experienced an attempt at multiple perpetrator forced intercourse. They were either rescued by another inmate or staff or were able to fight off the assailant, as illustrated by the following description:

Several inmates came up to me in gym and told me they were going to fuck me in the ass, we all got into a fight, that happen twice, until they found out I would fight every time and they finally gave up, and went to someone that was weaker, but I still got written up for fighting even though I was defending myself from assault, pretty fuck up ha!

A small percentage of male targets were forced to give sexual services to multiple perpetrators. Targets yielded to intimidation and threats of harm from varying groups of perpetrators rather than an outright physical attack. An illustrative description is

The person told me that if I did not do what he wanted he would make life here bad for me. He made me

Table 6

Male Targets by Dynamics of Worst Case Sexual Coercion Incident

| Type of act | Perpetrator type | | | Total n = 101 |
|--|------------------|-----------------|-----------------------|------------------|
| | Inmate n = 75 | Staff n = 13 | Inmate/Staff n = 5 | |
| Multiple perpetrator forced intercourse—completed | 27 (35%) | 1 (8%) | 1 (20%) | 29 (29%) |
| Multiple perpetrator forced intercourse—attempted | 6 (8%) | 0 (0%) | 0 (0%) | 6 (6%) |
| Multiple perpetrator forced intercourse—sexual service | 3 (4%) | 0 (0%) | 4 (80%) | 7 (7%) |
| Single perpetrator forced intercourse—completed | 15 (20%) | 3 (23%) | 0 (0%) | 18 (18%) |
| Single perpetrator forced intercourse—attempted | 4 (5%) | 0 (0%) | 0 (0%) | 4 (4%) |
| Multiple perpetrator forced sexual touch—completed | 0 (0%) | 3 (23%) | 0 (0%) | 3 (3%) |
| Single perpetrator forced or pressured sexual touch—attempted or completed | 16 (21%) | 5 (38%) | 0 (0%) | 21 (21%) |
| Single perpetrator pressured sexual intercourse—completed | 4 (5%) | 1 (8%) | 0 (0%) | 5 (5%) |
| Unknown relationship/strategy/outcome | — | — | — | 5 (5%) |

Note: Categories are mutually exclusive. Intercourse includes anal, vaginal, and oral sex.

suck on his penis and after doing this for about a week, he wanted more. He and his friends made me bend over the desk and they took turns going in me from the back. I wish something could be done. This has happened more than once for me.

About one fifth of the targets were forced to have completed intercourse with a single perpetrator. Most of these cases involved a cellmate, such as the following:

I had a roommate who told me he would kill me if I didn't let him have anal sex. He pinned me to his bed, and put all his weight on my legs with them in the air.

A small percentage of male targets were able to escape a single perpetrator's forceful attempt at intercourse, as illustrated by the following case, which happened to an elderly inmate in the prison infirmary:

He started slapping me around, tried to push his erect penis into my mouth. I bit it hard. That really pissed him off and also scared him.

Another small percentage of male targets were forced to engage in sexual touching by two or more perpetrators. Usually, the target would be held down and fondled or manually masturbated by the assailants. However, the most common sexual touch scenario—experienced by one fifth of male targets—involved being pursued by a single perpetrator who used persuasion and threats to demand sexual interaction. The perpetrator would often make a grab for the target's genitals. In most cases, the target prevented further contact by avoidance, refusals, defensive threats, and fighting. Examples are these:

He was always winking, blowing kisses and always trying to talk me into letting him give me a blow job. Until one day when he grabbed ahold of my penis and said I want you. Up until then I let it ride but after dinner that night I caught him by the tennis court where no guards could be and I smiled and said so you want me

and when he said yes I plant my foot upside his jaw and left him laying on the ground and that put a end to it.

He came in the shower (2-man shower) and reached for my genital and I backed off and knocked his head away from me. Then he said he wanted me to touch him and have oral and/or anal sex with me in the shower. I put my towel around me and told him didn't want him to even looking at me and if he tried this again I was going to knock him out. Later he told me he was going to tell staff what he thought he knew about my crime and he was going to make some up and tell them I'm the one who done it, not him, if I said anything to staff.

A final small percentage of male targets were pressured—not forced—to have completed intercourse with a single perpetrator. Targets indicated that because of manipulation or being given alcohol and drugs, they engaged in sex with someone whom they initially resisted.

Eighteen male targets reported that persons working at the prison were perpetrators or co-perpetrators in their incident. In at least two cases, a staff person joined with inmates to force an inmate to have intercourse. A more common scenario was one in which staff intimidated an inmate into sexual service. The following description is from a man exploited by both staff and inmates:

I'm scared easily and if I don't do what I'm told I usually get hurt! With the staff, they tell me if I don't do anything with them that they would make shit up to get me into trouble! And with the inmates it was force and nothing was said! They just did it! please help.

In a small number of cases, a single staff member used threats and intimidation to obtain intercourse with an inmate. An example is the following:

Once while I was sleeping at night a male guard told me the he wanted me to give him head until he got hard then told me that he wanted to screw me and if I didn't cooperate that I would get taken to

the hole and get a misconduct written on me and no one would believe me if I told.

In many cases, the targets were sexually fondled or masturbated by either a group of staff or a single staff person. One inmate indicated that he was verbally persuaded to have sexual intercourse with a female guard who followed him into the men's bathroom and told him what she wanted to do.

For female targets, two incidents were classified as "multiple perpetrator forced sexual touch—completed." One of these was perpetrated by several female inmates, and the other incident was perpetrated by several male staff. The third incident was classified as "single perpetrator forced or pressured sexual touch—attempted." Her description follows:

This woman kept trying to touch me. Telling me to get into shower with her naked. Said she was gonna come and join me in shower. As I was walking to my room she called me and exposed her private parts to me . . . She wanted me to be her 'woman' I said no.

Emotional consequences. The emotional impact of worst case incidents was extremely negative for most targeted inmates. On the average, targets gave a rating of 6.3 for the immediate impact of the incident on a scale where the maximum score of 7 reflected great upset. The endpoint 7 was marked by 77% of targets. The long-term effects of the incident received a mean rating of 5.5 on a scale where the maximum score of 7 indicated a severe bad effect. The endpoint 7 was marked by 54% of respondents. Male and female targets had similar scores on both scales.

More than three fourths of the targets experienced at least one negative effect from the incident. For male targets (see Table 7), the most frequently experienced problems were feelings of distrust, nervousness around people, and depression. Physical injuries were sustained in 16% of the cases. The most common write-in responses to the "other" category were racial

Table 7

Male Targets by Consequences of Worst Case Sexual Coercion Incident

| Consequence of incident | Male targets n = 101 |
|--|-------------------------|
| Distracts people | 67 (66%) |
| Nervousness around some people | 65 (64%) |
| Do not like people getting physically close | 59 (58%) |
| Depression | 57 (56%) |
| Worried about it happening again | 55 (54%) |
| Worried about reputation as man/woman | 45 (45%) |
| Flashbacks/had dreams | 37 (37%) |
| Thoughts of suicide | 36 (36%) |
| "Other" consequences | 29 (29%) |
| Physical injuries | 16 (16%) |
| No bad effects occurred | 12 (12%) |
| Unknown | 11 (11%) |

Note: Percentages add to more than 100 because most targets reported multiple consequences.

prejudice and a desire to kill or take revenge upon the perpetrator(s). The three female targets all reported distrust and nervousness. Two worried about the incident happening again and had had dreams and flashbacks. One suffered depression, but none reported thoughts of suicide. The female targets did not report physical injuries.

Disclosure. Half of the targets did not tell anyone about their worst case incident. Male targets who disclosed the incident were most likely to confide in friends and family outside the prison (23%) or another inmate (23%). Some male targets confided in counselors/clergy (18%) and medical staff (10%). An analysis revealed that only 29% of male targets told either an administrative or a non-administrative staff member working at the prison. One of the three female targets did not tell anyone. The other two women told prison administrators and family and friends outside of the prison. One also confided in medical staff and another inmate. According to written explanations of 17 inmates who had not told anyone, the major reasons were fear of harm from the perpetrators, poor treatment by staff, and shame and embarrassment.

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Prevention Ideas

Ideas for ways to prevent prison sexual assault were provided by 423 inmates (83% of the return sample). Most inmates offered several solutions. Three raters and the first author developed categories for describing distinct prevention ideas. The three raters then calculated the frequency that each solution was mentioned. Male and female inmates were combined for this analysis. The same procedure was used to analyze answers received from 205 staff (78% of the return sample).

For inmates, the most frequently mentioned solution ($n = 89$) was to segregate vulnerable inmates (e.g., those who are young, non-violent, new in prison, White) from sexual predators. Other favored solutions were allowing conjugal visits ($n = 70$), teaching inmates how to avoid sexual assault ($n = 36$), and increasing staff and supervision ($n = 31$).

Most staff wrote that the best way to prevent prison sexual assault is to hire more staff and increase supervision ($n = 79$). Other favored ideas included screening and segregating vulnerable inmates from sexual predators ($n = 57$), use of single cells ($n = 37$), and increasing staff's communication and concern with inmates ($n = 35$).

Discussion

The major finding of the study was that 20% of inmates responding to our survey reported the experience of being pressured or forced into sexual contact in a state prison facility. The accuracy of the 20% incident rate must be considered in light of the 30% return rate of the survey. Was it possible that every inmate in the prison facilities who had experienced coercive sex returned their survey to us? If so, then the actual incident rate for 1,800 inmates was 6%. However, we believe that the 20% rate was reasonably accurate for several reasons.

First, the 22% and 23% rates of sexual coercion found for the two men's maximum security facilities

are reasonably close to the 28% "sexual aggression" rate reported by Lockwood (1980). In addition, the estimated rate of anal/vaginal/oral intercourse in our study (12%) is close to the 14% sexual assault rate documented by Wooden and Parker (1982).

Second, the nearly identical rates found in two separate maximum security facilities serve as a replication of each other. As further evidence, the estimates of incident rates from both staff and all responding inmates in each facility were close to the reported incidents for that facility. This finding suggests that staff and non-target inmates had a general awareness of the level of non-consensual sexual activity in each facility.

Finally, we think that it was a difficult, risky decision for targeted inmates to return a survey to us. We concur with Eigenberg (1994) that it is not easy for inmates, especially men, to tell unknown strangers about an event as personal and traumatic as forced sex. In fact, half of the targets said they had not told anyone about being sexually coerced until they took our survey. Many targeted inmates informed us in returned surveys that they were very worried about being "found out" by other inmates or prison officials. We were also told that some inmates suspected that we were prison officials masquerading as researchers. Therefore, we believe it is likely that many persons who had been sexually coerced in prison did not return a survey to us and that our results are not an overestimate of sexual coercion.

An important finding of the study is that the incident rate of coerced sex was 22% for male inmates and 7% for female inmates. The lower rate for female inmates may have reflected the smaller, more manageable size of the women's facility and the greater proportion of non-violent offenders. Another possible explanation is that women are reportedly less likely than men to initiate sexually coercive acts (Struckman-Johnson, 1988). In

general, our study suggests that the rate of sexual coercion among women in prison is moderately low.

The major accomplishment of the study was the documentation of the dynamics of the worst case incidents reported by targeted inmates. Our findings indicated that one half of the targets had been forced to have intercourse, with about one fourth of all incidents qualifying as "gang rape." Another 10% of the targets reported an attempt at forced intercourse. One fourth of the targets were subjected to less severe acts of forced and pressured sexual touching.

Two thirds of the targets had experienced other incidents in addition to their worst case incident. Overall, targets reported an average of nine incidents (with three incidents as the median). In fact, several inmates gave written descriptions of two or three worst case incidents that they considered equally harmful.

An unexpected finding was that persons working at the prison were reportedly involved in 18% of the incidents. We had a confirmation of some staff involvement from a female guard who contacted us privately and said that she had participated in sex with numerous male prisoners. Our study suggests that some persons working in prisons use their position of authority to gain sexual contact with inmates.

Another important finding of the study is that a majority of targeted inmates reported profound negative effects as a consequence of sexual coercion. Nearly 80% of targets reported significant emotional reactions following the incident, including half who experienced depression and one third who had thoughts of suicide. These data confirmed those of earlier researchers who documented symptoms of rape trauma syndrome among sexually assaulted inmates (Cotton & Groth, 1982; Lockwood, 1980; Peoples & Scacco, 1982).

In retrospect, our measures for the consequences of sexual coercion in prison were somewhat inadequate.

The items could not capture the intensity or the breadth of inmates' reactions. For example, many targets "extended" the seven-point scales by adding numbers, stars, and symbols to express a higher degree of upset. They added emotional reactions to our short list, such as a hatred, prejudice, and a desire for revenge. In future research, we recommend using a standardized scale to measure levels of depression and anxiety. A greater range of consequences should be assessed, such as attempts at suicide and medical problems related to injuries and transmission of STDs and AIDS.

A final important finding of the study was targeted inmates' low rate of disclosure about sexually coercive incidents. Only one half said that they had told anyone about the incident, and only 29% had informed prison officials. This fear of disclosure is a major barrier to efforts to identify, treat, and protect persons who have been sexually victimized in prison.

Our study has provided much needed information about pressured and forced sexual experiences of male and female inmates in a state prison system in the mid-1990s. The generality of our findings, however, may be limited in that we studied a relatively small, well-managed prison in a rural, sparsely populated state. The incidence of nonconsensual activity may be higher in prison systems with larger, more crowded inmate populations with greater ethnic diversity and conflict.

We believe that the topic of coercive sex in prison should be opened for research by social scientists and sexologists. Considering that nearly half a million men and women are admitted to and released from prison each year (Snell, 1993) and that 10 million pass through the nation's local jails (Perkins, Stephan, & Beck, 1995), prison sexual coercion is a social problem, not just a corrections issue. Three areas merit attention:

Treatment of victims. Research is needed on effective medical and men-

tal health-treatment models for victims. To date, there is only one rape trauma treatment program developed specifically for inmate victims (Donaldson, 1993). This information is needed not only by prison medical and counseling staff but by community professionals, as well. For example, Lipscomb, Muram, Speck, and Mercer (1992) reported that 80 of 119 male adult victims treated at a community sexual assault clinic over a three-year period were incarcerated inmates transported from the local prison. Substantial numbers of victims released from prison would benefit from follow-up care in community mental health facilities. The long-term consequences of rape trauma syndrome in released inmates—including potentially violent behavior—have yet to be evaluated (Donaldson, 1993).

HIV management. According to prison sexual assault expert Fay Honey Knopp (Donaldson, 1993), men who are forced into anal sex in prison are at increasing risk to AIDS. In 1993, it was estimated that 2.4% of inmates in federal and state prisons had HIV (Brien & Harlow, 1995). According to an unpublished study by the Centers for Disease Control, seven inmates (.03%) in an Illinois state prison acquired AIDS while confined ("Breaking the Silence," 1995). In what may be the first of many cases, several inmates in 1995 sued states because they acquired AIDS as a consequence of prison rapes ("Breaking the Silence," 1995).

Research on strategies for HIV management in prison settings may save the lives of inmates, as well as reduce the number of infected persons released from prison who can potentially spread AIDS to the general population. Social scientists could also work to change current prison policies that prevent implementation of practical solutions such as distributions of condoms. Illustrating this dilemma, psychologist Mary E. Craig Shea (personal communication, September 9, 1995)

reported that she once worked in a corrections mental health unit where two young men were frequently targeted for sexual assault. One of the victims was a known HIV patient, and the other had infectious TB. When staff requested that condoms be made available to inmates to prevent the spread of diseases, the officials refused. Providing condoms, they explained, would be condoning sodomy—an illegal sexual activity in prison.

Prevention. Although several prevention models are available in the literature (e.g., Cotton & Groth, 1982), there is little information on which solutions would work best. For example, we found that most staff preferred "management" solutions such as increasing staff and supervision. Many inmates, believing that the problem is related to sexual deprivation, favored conjugal visits. By studying the underlying dynamics of prison sexuality, social scientists and sexologists could provide invaluable guidance for the development of appropriate prevention policies.

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Manuscript accepted November 29, 1995

Article 2

**Sexual Coercion Rates
In Seven Midwestern
Prison Facilities For Men**

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Reprinted from *The Prison Journal*
Volume 80, No. 4, December 2000, pp. 379-390
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SEXUAL COERCION RATES IN SEVEN MIDWESTERN PRISON FACILITIES FOR MEN

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Sexual coercion rates in seven prison facilities for men in midwestern states were assessed. Anonymous written surveys were distributed to the total population of 7,032 inmates and 1,936 security staff in the facilities. Usable surveys were returned by 1,788 inmates (25%) and 475 staff (25%). Results showed that 21% of the inmates had experienced at least one episode of pressured or forced sexual contact since incarceration in their state, and 16% reported that an incident had occurred in their current facility. At least 7% of the sample had been raped in their current facility. Seven percent of the sample had experienced sexual coercion, and at least 4% had been raped during the most recent 26 to 30 months. Factors that appeared to increase sexual coercion rates were large population size, racial conflict, barracks housing, inadequate security, and having a high percentage of inmates incarcerated for a crime against persons.

The prevalence of sexual coercion of men in prison—defined here as the occurrence of pressured or forced sexual contact against one's will—is perhaps one of the most illusive statistics in the criminal justice field. There is general agreement that sexual coercion is a contributing factor to prison violence (Lockwood, 1980), tension and anxiety in the prison environment (Smith & Batiuk, 1989), medical trauma to victims (Lipscomb, Muram, Speck, & Mercer, 1992), emotional trauma to victims and suicide (Donaldson, 1993), and the spread of infectious diseases and HIV ("Breaking the Silence," 1995). However, after decades of research, social scientists have yet to agree on what percentage of incarcerated men experience coercive sexual contact (Dumond, 1992, 1999). Thus, corrections authorities and policy makers are faced with remedying a problem of unknown dimensions (Cotton & Groth, 1982).

A majority of the research suggests that less serious incidents of sexual coercion, such as genital fondling and failed attempts at intercourse, are com-

mon in men's prison facilities but that completed rapes (defined here as forced oral, anal, or vaginal intercourse) are infrequent. One early study by Lockwood (1980) revealed that 28% of 89 male inmates interviewed in a New York state prison had been the target of sexual aggression, but only one inmate (1.3%) was reportedly raped. Nacci and Kane (1983) interviewed 330 male inmates in the federal prison system and found that about one third had been the target of sexual aggression, but less than 0.3% had experienced a completed rape. According to Cooley (1993), only 1 of 55 inmates in five Canadian federal prisons reported a sex-related victimization in a year's time. More recently, Hensley (2000) reported that 14% of 174 male inmates interviewed in an Oklahoma prison had been sexually threatened, but only 2 (1.1%) had been raped.

However, many researchers have noted that sexual assault is likely to be underreported by male inmates because of fears of reprisals, unwillingness to be a "snitch," and fear of being labeled a homosexual or weak (Colton & Groth, 1982; Eigenberg, 1994). At least two studies suggest that when inmates are given the opportunity to report sexual-assault experiences in an anonymous way, the rates are significantly higher. In 1982, Wooden and Parker found that 14% of a sample of 200 male inmates in a California medium-security prison reported in an anonymous survey that they had been pressured into having sex against their will. The sexual-assault rates varied by sexual orientation: 41% for homosexuals, 2% for bisexuals, and 9% for heterosexuals.

Struckman-Johnson, Struckman-Johnson, Rucker, Bumby, and Donaldson (1996) conducted an anonymous written survey of sexual assault in the Nebraska state prison system in 1994. The survey was distributed to the total population of 1,700 male inmates in three facilities. Results showed that 12% of 486 men who responded to the survey had been forced to engage in sexual intercourse at least one time since incarceration. Another 10% had experienced less-serious incidents of sexual coercion (e.g., attempts at contact, acts of pressured sex).

What can explain the finding of prison rape rates as low as 1% to as high as 14%? According to Saum, Surratt, Inciardi, and Bennett (1995), the disparities may be due to differences in methodologies, definitions of sexual assault, and types of facilities studied. Differences in time periods when the studies were conducted may also be a factor. The present study was undertaken to overcome many of these limitations. We planned to replicate our study of sexual coercion of Nebraska inmates in several other state prison facilities. Inmates in each facility would be assessed with the same survey instrument and research procedures during the same time frame. The major objective

was to find consistencies in the results that could help establish estimates of "true" sexual-assault rates. Another purpose was to determine if characteristics of prison facilities and/or their inmate populations influenced sexual-assault rates.

METHOD

SELECTION OF FACILITIES AND SAMPLE

We sent out proposals to the Department of Corrections (DOC) in 14 states requesting their participation in a sexual-assault survey. We guaranteed that the identities of participating facilities would be kept anonymous. Six departments declined, three requested that we make our request at a later time, and five agreed to participate. Of these, four departments offered the participation of seven men's facilities. (Three women's facilities were also made available, but only the men's facilities are the subject of this article.)

The total population of inmates and security staff in a facility were sampled. Facility 1 was a maximum-medium-minimum facility that provided a sample of 1,770 men from the maximum-security unit and 517 staff members. A sample of 1,650 inmates and 395 staff members were obtained from Facility 2—a maximum-medium-minimum security facility. In Facility 3, a maximum-medium-minimum security facility, surveys were sent to 1,150 inmates in the maximum-security unit and 370 staff members. Facility 4 was a maximum-medium-minimum security facility that provided 890 inmates and 220 security staff members for sampling. Facility 5 was a maximum-security long-term segregation facility with 952 inmates and 280 security staff members. Five hundred inmates and 154 security staff members were surveyed in Facility 6—a maximum-medium facility. A sample of 120 inmates was available from Facility 7, a minimum-security facility. (Staff members were not sampled.) The total sample size was 7,032 male inmates and 1,936 security staff members.

INSTRUMENTS

The inmate and staff questionnaires were shortened versions of the Nebraska survey instruments. The inmate and staff surveys each had sections for demographic data; perceptions of the prison environment; and opinions about, and remedies for, sexual coercion. Only the inmate survey had a section for actual sexual coercion experiences. The relevant questions from the inmate and staff surveys are described below.

Sexual coercion rates. In the inmate survey, the statewide sexual coercion rate was assessed by the question, "Since the time you have been in a (name of state) prison, has anyone ever *pressured* or *forced* you to have sexual contact (touching of genitals, oral, anal, or vaginal sex) against your will?" The facility sexual coercion rate was determined by a follow-up question: "If yes or not sure, list all of the (name of state) facilities where it happened, how many times it happened in each facility, and the years you were in each facility."

Worst-case incident and rape rates. Inmates were asked, "If you have been *pressured* or *forced* to have sexual contact while in prison, please describe what happened in the rest of the questions. If you have been forced or pressured to have sexual contact more than once in prison, describe the one time that was the *most serious or harmful to you*." Questions followed about the number, gender, race, and relationship (e.g., inmate or prison staff) of the perpetrator(s) and the year in which it occurred. Inmates were requested to write a description of the incident.

Inmates were asked whether the incident was brought about by pressure (persuasion, bribery, blackmail, threat of love withdrawal, or use of alcohol or drugs) or force (threats to harm or hurt, physical intimidation, physical restraint, physical harm, and use of a weapon). They also indicated the sexual outcome—attempts at touch; genital touching; and oral, anal, or vaginal sex.

Sexual coercion estimates and facility protection level. Inmates and staff were asked, "In the prison you are in now, about what percentage of inmates do you think have been pressured or forced to have sexual contact against their will? Circle your best guess." The numbers ranged from 0%, 1%, 5%, 10%, and upward to 100% in 10% increments. Inmates and staff also were asked, "In the prison you are in now, do you think that the prison system protects inmates from pressured or forced sexual contact? Circle one number." The 7-point scale ranged from *definitely no* to *definitely yes*.

PROCEDURES

Following approval from the university Human Subjects Committee, the investigators and their undergraduate research assistants prepared packets that contained a consent form explaining the anonymous and voluntary nature of the survey, the questionnaire, and a postage-paid, return-addressed envelope. Between February and July 1998, the packets were boxed and delivered to DOC officials at the participating facilities. Prison staff then distributed packets to all of the inmates and security staff in the facilities.

RESULTS

RETURN RATES

A total number of usable surveys returned was 1,788 for inmates (25% return rate) and 475 from security staff (25% return rate). The actual return rates were 2 to 3 percentage points higher when all returned responses were considered. About 140 inmate surveys could not be used because they were incomplete, prankish, or grossly inconsistent. Many inmates sent back a letter instead of a survey. According to a handwriting screen of surveys from inmates claiming sexual coercion, two inmates sent in five duplicated surveys. About 40 staff surveys could not be used, usually because the respondent was a new employee who could not answer the questions.

See Table 1 for the number of inmate and staff returns for each facility (rows 1 and 2). The return rate for inmates ranged from as low as 21% from Facilities 5 and 7, to as high as 35% in Facility 6. The number of staff returns varied from as low as 15% in Facility 2, to as high as 37% in Facility 6 and 39% in Facility 3.

SEXUAL COERCION RATES

Statewide and facility sexual coercion rates. Of the 1,788 respondents, 375 (21%) indicated that they had experienced at least one incident of pressured or forced sex while incarcerated in their state. As shown in row 3 of Table 1, the statewide sexual coercion rates for the seven men's facilities varied from 16% to 26%. Two hundred eighty-five inmates (16%) had been sexually coerced in their current facility. The facility rates for the seven men's facilities ranged from 4% to 21% (row 4). The facility rates were, of course, lower than statewide rates because some inmates experienced sexual coercion in prisons or jails other than their current facility.

Facility worst-case incident rates. Two hundred fifty-four inmates (14% of 1,788 respondents) provided information about a worst-case incident that happened in their present facility. Rates ranged from 4% to 17% in the facilities (row 5). The worst-case rates were lower than the facility rates because many inmates chose to write about an incident that took place at another facility, even though they had experienced sexual coercion in their present facility. Also, some inmates reported that an incident took place in their present facility but declined to provide information about a worst-case incident. Therefore, the worst-case incident rates were a low-end estimate of the actual number of incidents that took place in a facility.

TABLE 1: Summary of Sexual Assault Rates and Estimates for Midwestern Prison Facilities

| Characteristic | Facility | | | | | | |
|--|--------------------|---------------|-------------|-------------|------------------|------------------|-------------|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| 1. Sample size—Inmates | 481 | 430 | 270 | 202 | 196 | 174 | 23 |
| 2. Sample size—staff | 109 | 59 | 143 | 46 | 61 | 57 | — |
| 3. Inmates reporting a pressured- or forced-sex incident in any prison/jail in the state (%) | 24 | 21 | 26 | 16 | 18 | 16 | 16 |
| 4. Inmates reporting a pressured- or forced-sex incident in this facility (%) | 18 | 19 | 21 | 14 | 4 | 14 | 4 |
| 5. Inmates reporting a worst-case incident in this facility (%) | 16 | 17 | 15 | 14 | 4 | 14 | 4 |
| 6. Inmates reporting a worst-case incident in this facility between 1996 and early to mid-1998 (%) | 9 | 8 | 8 | 7 | 3 | 5 | 4 |
| 7. Inmates reporting a worst-case incident of rape in this facility (%) | 8 | 11 | 9 | 6 | 0 | 7 | 4 |
| 8. Inmates reporting a worst-case incident of rape in this facility between 1996 and early to mid-1998 (%) | 4 | 6 | 4 | 3 | 0 | 2 | 4 |
| 9. Inmate estimate of how many inmates are pressured/forced into sex in this facility (0-100%) | 27 | 41 | 24 | 13 | 17 | 12 | 7 |
| 10. Staff estimate of how many inmates are pressured/forced into sex in this facility (0-100%) | 18 | 28 | 12 | 18 | 11 | 4 | — |
| 11. Inmate rating of sexual-assault protection level in this facility (1-7) | 2.4 Low | 2.1 Low | 2.8 Low | 3.0 Low | 3.9 Medium | 4.6 Medium | 4.6 High |
| 12. Staff rating of sexual-assault protection level in this facility (1-7) | 4.8 Medium-High | 4.2 Medium | 5.7 High | 5.0 High | 6.2 Very High | 6.0 Very High | — |
| 13. Percentage of incidents that involve staff | 20 | 21 | 22 | 15 | — | 28 | — |
| 14. Percentage of survey respondents incarcerated for a crime against persons | 80 | 56 | 71 | 59 | 70 | 60 | 20 |

NOTE: 1 = maximum-medium-minimum facility for men (survey focused on maximum unit); 2 = maximum-medium-minimum facility for men; 3 = maximum-medium-minimum facility for men (survey focused on maximum unit); 4 = maximum-medium-minimum facility for male felons; 5 = primarily maximum facility for men that holds long-term segregation offenders; 6 = maximum-medium facility for male felons; 7 = facility for male felons, misdemeanants, and first offenders.

Facility worst-case incident rate for 1996-1998. The worst-case facility rates included sexual coercion cases that had happened as far back as the 1960s. To determine rates in recent years, we estimated the number of worst-case incidents that had occurred in a facility from 1996 until the time in 1998 when the survey was conducted. Depending on the facility, the end date was either early or midyear of 1998. Thus, the estimates were for a 26- to 30-month period. The number of inmate cases in this category was 130 or 7% of the total sample. The rates ranged from 4% to 9% for the facilities (row 6).

Facility worst-case incident rate for rape. To estimate the number of incidents that would meet a legal definition of rape, we counted only the facility worst-case incidents that were brought about by a force tactic and resulted in oral, anal, or vaginal sex. The number of inmate cases for this category was 131 or 7% of the total sample. As shown in row 7, the rates for facility worst-case incidents of rape ranged from 0% to 11% in the facilities.

1996-1998 facility worst-case incident rate for rape. The estimated number of inmate cases of rape that had occurred from 1996 to 1998 was 67 or 4% of the total sample. Rape rates for the past 26 to 30 months ranged from 0% to 6% in the facilities (row 8).

Estimates of sexual coercion rates. As shown in Table 1 (rows 9 and 10), inmate estimates of the sexual coercion rate in their facility were usually close to the reported statewide sexual coercion rate, but somewhat higher than the reported facility rate for their institution. Staff estimates tended to be lower than the statewide or facility rates. In Facility 4, inmate and staff estimates were within a few percentage points of the actual facility rate. Facility 2 was unusual in that both inmate and staff estimates were substantially higher than the reported statewide or facility rates—an outcome that will be discussed later.

Ratings of facility protection level. As shown in Table 1, row 11, inmates in the larger men's facilities (1, 2, and 3) gave low ratings for their facility protection level. A medium rating was given by inmates in Facility 5, a high-security, long-term segregation facility. A medium-high rating was given by inmates in Facility 6, a relatively small prison, and by inmates in Facility 7, a small minimum-security prison.

Staff ratings for the prison protection level (Table 1, row 12) were much higher than inmate ratings in all of the facilities. However, those facilities that had the lowest inmate ratings for protection also had the lowest staff ratings for protection (Facilities 1 and 2). Facilities with the highest inmate protec-

tion ratings had some of the highest staff ratings for protection (Facilities 5 and 6). Thus, inmates and staff generally agreed on whether protection levels were relatively low or high in their facility.

Alleged staff involvement. As shown in Table 1, row 13, about 20% of the inmates from the larger facilities indicated that a male or female staff member(s) participated in their worst-case sexual coercion incident. The percentages for the other facilities are not shown because they were based on a small number of incidents.

DISCUSSION

We integrated all of our data to produce facility profiles that could help explain the variable sexual coercion rates in the seven facilities. The facilities are discussed in order of highest to lowest sexual coercion rates. We judged Facility 2 as having the worst sexual coercion climate of the seven facilities surveyed. It had one of the highest facility sexual coercion rates (19%) and the highest rape rate (11%). The primary cause appeared to be the use of barracks housing, where 50% of the sexual coercion incidents reportedly occurred. Another problem was racial conflict. White inmates complained that Black sexual aggressors routinely preyed on young White inmates. Our data showed that the targets in 60% of the incidents were White, whereas the perpetrators in 74% of the incidents were Black.

A third factor was lax security. Both inmate and staff respondents complained about poorly paid, unmotivated staff who failed to complete basic rounds. Many inmates also complained that some homosexual and/or Black staff tended to be permissive about sexual coercion. Numerous inmates alleged that a few high-level officers had for years demanded sexual favors from inmates.

The inmate responses suggested that a climate of fear about sexual assault dominated the prison. Supporting evidence was the unusually high estimates of sexual assault and the low protection-level ratings given by both inmates and staff. Although the reported sexual coercion rate (19%) was not as high as the inmate estimated rate (41%), inmates did have a basis for their fears. Some of the most brutal and recent rapes reported in our study came from this facility. One security officer wrote that he had witnessed a "young boy" brought to the infirmary after being raped by seven Blacks. The inmate was crying, bleeding, and hurt badly inside. Showing no compassion, the infirmary staff "patched him up" and sent him back to the same barracks where he

had been attacked. Many other surveyed staff agreed that there was a need for more staff, better pay, and training.

Facilities 1 and 3 had the highest statewide sexual coercion rates (24% and 26%), and high facility rates (18% and 21%). However, both facilities had a lower rape rate (8% and 9%) than Facility 2. The high sexual coercion rates in both facilities appeared to be related to having a large inmate population size (above 1,000) in conjunction with understaffing. As evidence, inmates gave their facilities low protection-level ratings. Responding staff gave higher protection-level ratings to their facilities but expressed the need for more staff and tighter security.

Racial dynamics contributed to the problem in both facilities. For example, in Facility 1, 72% of the incidents involved White targets, whereas 71% of the incidents involved Black perpetrators. Many older inmates in these facilities wrote that gang rapes were not as frequent as they were in the "old days." Modern-day rapes, in their opinion, were caused by racial conflicts, gang politics, and a new breed of violent young offenders.

Facility 4 had a medium level of sexual coercion—a 16% statewide rate, a 14% facility rate, and a 6% rape rate. The lower rates in Facility 4 most likely reflected its smaller population size (less than 1,000 inmates) and its racially homogeneous population (primarily White). Compared with Facilities 2 and 3, Facility 4 had a smaller percentage of violent offenders. In addition, Facility 4 had recently undergone several months of "lockdown"—a procedure that limits sexual coercion opportunities. Despite the lower rates, several inmates reported serious gang rapes in recent years. A contributing factor appeared to be inadequate or lax security by the staff. Inmates gave a low to medium protection-level rating to the facility. Surveyed staff perceived the protection level as high, but many noted that there was a need to hire more guards.

Facility 6 had very similar rates of sexual coercion to Facility 4. It shared similar features of having a small population size, being racially homogeneous, and having a lower proportion of inmates who had committed crimes against persons. Nonetheless, several inmates had reported serious rapes in recent years. The administration could not understand how rapes could be occurring because their prison had a reputation for good management and few problems with violent inmates. This was supported by the favorable protection-level ratings given by inmates and staff. One likely explanation was that the prison had recently begun to import violent offenders from other states for financial reasons. According to several survey respondents, some of these transfer offenders were raping the local inmates.

Facility 7 had one of the lowest facility rates for sexual coercion (4%). Only 1 of 25 respondents reported being raped (4%). The low rates were a reflection of the facility's small population size (100) and the low proportion of violent offenders present in this minimum-security unit. Good security was also a factor, as inmates gave a medium-high rating to the protection level of the facility.

Facility 5 was unusual in that it had a very low 4% facility rate and a 0% rape rate, even though it was a maximum-security unit with a population of about 1,000 inmates and had a high proportion of offenders who had committed a crime against persons. The 24-hour lockdown procedures routinely used in the facility appeared to have eliminated nearly all opportunities for rape of inmates by other inmates. The small number of incidents that were reported had minor sexual outcomes. The majority of perpetrators were male and female prison staff.

LIMITATIONS

We cannot be sure that a sexual coercion rate reported by only 25% of the total population of inmates in a facility reflects the "true" sexual coercion rate. We know that the return sample for facilities 1, 3, and 5 had an overrepresentation of better educated inmates and a moderate underrepresentation of Black inmates. It is possible that these characteristics may be related to sexual coercion rates. For example, because Whites are more likely to be victims of sexual coercion than Blacks, the rates for these facilities may be overestimates. However, if less educated inmates are more likely to be sexually coerced than inmates with more education, the rates for these facilities may be underestimated.

The study is also limited in that the results were based on anonymous written surveys that could be falsified. Although we screened the surveys of target inmates looking for inconsistencies and duplications, it is likely that some falsified surveys were analyzed. However, we believe that the results from Facility 5 support the credibility of our data. Although 18% of the inmates from this facility said that they had been sexually coerced in another facility in their state, not one reported being raped in their current facility. Thus, they were not using the survey as an opportunity to make their facility "look bad." In our opinion, inmates were generally truthful in reporting incidents.

CONCLUSIONS

About 21% of 1,788 male inmates who responded to the survey reported at least one incident of sexual coercion in their state prison system. Sixteen percent had experienced an incident in their facility, and 7% had been raped in their facility. Seven percent said that their worst-case incident had happened in the past 2½ years. Four percent of all male inmates said that they had been raped in the past 26 to 30 months.

Many of the results were similar to the findings of the Nebraska prison study (Struckman-Johnson et al., 1996). For example, the statewide sexual coercion rates for inmates in the largest facilities in the present study ranged from 21% to 26%. The statewide sexual coercion rates for two Nebraska facilities with the same custody levels were 22% and 23%.

Sexual coercion rates varied among the facilities. Factors that appeared to be related to higher rates of sexual coercion were having an inmate population size greater than 1,000, the existence of conflict among Black and White inmates, the use of barracks housing, and having a greater proportion of inmates who have committed a crime against persons. The presence of a sufficient number of motivated security staff and tight security measures appeared to limit sexual coercion among inmates. For example, we found that a facility that used lockdown procedures had a zero rape level. Finally, our study suggested that a substantial portion of sexual coercion incidents (about 20% in larger prisons) involved prison staff perpetrators.

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LETTER FROM JOSEPH D. LEHMAN



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April 30, 2003

The Honorable Howard Coble
 Chair, Subcommittee on Crime
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The Honorable Robert C. Scott
 Ranking Member, Subcommittee on Crime
 U.S. House of Representatives
 2464 Rayburn House Office Building
 Washington, D. C. 20515-3306

Dear Congressmembers Coble and Scott:

RE: HR 1707 - THE PRISONER RAPE ACT OF 2003

We appreciate very much the bipartisan concern among members in Congress about sexual assault in corrections facilities. Protecting staff and offenders alike, in addition to maintaining community safety, is the core of our mission.

We support most of the objectives of HR 1707: improving our understanding of prisoner rape; preventing these crimes from occurring in the future; and responding swiftly and effectively when offenders are sexually assaulted. Prisoner rape is relatively rare in jails and prisons, and we want to do everything possible to end it altogether.

We are grateful for your efforts to incorporate in HR 1707 many changes that the corrections community recommended to earlier versions of this bill. Nevertheless, some provisions in HR 1707 remain that would impede – rather than assist – corrections administrators' efforts to reduce sexual assault of offenders. We also are concerned that the bill, while allocating significant resources to combat prisoner rape, overlooks the most significant public safety issues in corrections currently facing state and local governments. For these reasons, we urge you to make five modifications to the legislation.

First, with respect to the study that the bill instructs the Bureau of Justice Statistics to conduct, we recommend the legislation clarify several important issues: 1) what constitutes rape in a correctional facility; 2) who are among the potential perpetrators;

"Working Together for SAFE Communities"



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and 3) how information regarding sexual assault in the facilities will be collected. Each of these issues is quite complex; sorting them out thoroughly in the legislation itself will be extremely difficult. Accordingly, with respect to each of these issues, the bill should instruct Bureau of Justice Statistics to provide opportunities for corrections administrators, corrections staff, prosecutors, police chiefs, victim advocates, former offenders, and other experts to inform and guide the development of the study in order to ensure the research yields an accurate and, to the extent possible, complete assessment of prisoner rape.

Second, the description of the Review Panel on Prisoner Rape, which the bill both establishes and directs to convene annual hearings to inform the yearly Bureau of Justice Statistics study, should be changed to ensure that the information it collects is practical and useful. The bill currently charges the panel with conducting public hearings involving administrators from those facilities that appear to have high rates of prisoner rape. This process seems almost certain to promote a confrontational and highly emotional environment, unlikely to yield any information of real value. A much more constructive process likely to considerably inform the Bureau of Justice Statistics study would be to charge the panel with consulting (and, if necessary or appropriate, taking testimony from) with officials from a random selection of the original random sample of facilities identified for the survey.

Third, the National Prison Rape Reduction Commission (which is distinct from the Panel that the bill also establishes) should be directed to consult accreditation organizations that currently have standards on sexual assault, and to review existing standards and standards under development before making its final report. Currently, HR 1707 instructs this Commission to develop accreditation standards without recognizing that the members and staff of accreditation organizations, such as the American Correctional Association and the Association of State Correctional Administrators, have already spent an extraordinary amount of time and resources preparing standards (some of which are still under development) that address issues relating to sexual assault and the conditions of a facility or system that facilitate sexual assault. The Commission should tap these resources and avoid inadvertently undermining important work done on this issue to date.

Fourth, the legislation should limit the instances in which jurisdictions would be eligible for an increase in funding support and narrow the definition of the "source of funds for increases" from which the 10 percent reward will be drawn. As currently written, this legislation punishes those states and counties that do not comply with federal mandates (which have yet to be developed). To make funding available for the jurisdictions eligible for an increase, those states and counties that do not adopt the standards will lose as much as 20 percent of the federal grants they receive through the U.S. Department of Justice. Similarly, a jurisdiction not represented during the hearings that the Panel

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 The Honorable Robert C. Scott
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conducts could lose funding support. That prospect is especially puzzling given that, as the bill is currently written, those jurisdictions that the Bureau of Justice Statistics study identifies as having relatively low rates of prisoner rape would not be represented at the hearing.

Fifth, and most important, we urge you to add to the legislation language recognizing that offender safety is actually only one aspect of a much larger, more pressing, public safety issue that may quickly become a crisis in state and local governments across the country. Extraordinary fiscal problems are prompting governors and legislatures to recommend dramatic cuts to corrections budgets that can be achieved only by reducing the prison population, or, in some states, the rate of the system's growth. State officials must soon make high-stakes decisions about their prison population, yet are without the resources to ensure their decisions are informed ones. As a result, with budgetary pressures in the states as intense as they are, policymakers will need to make nearly blind decisions—Russian Roulette with major public safety implications.

If Congress is to pass any legislation that addresses the safety of offenders, the accountability of corrections administrators, and the efficiency and effectiveness of federal expenditures through existing programs (as HR 1707 does), it needs to address state and local government officials' acute need for immediate, targeted, peer-to-peer assistance that would assist them in managing corrections costs effectively without compromising public safety. States and counties considering modifications to policies that would affect, post-sentencing, jail and prison admissions or offenders' length of stay should have the benefit of data, expertise, and information about what has worked in other jurisdictions across the country.

Again, we appreciate the changes you have made to date regarding this legislation and respectfully urge you to address the issues described above so that this bill will, in the end, help corrections administrators protect offenders, staff, and the public. Should you have any questions regarding these recommendations, please do not hesitate to contact Michael Thompson of the Council of State Governments, 212-912-0128, George Camp of the Association of State Correctional Administrators, 860-704-6410, or me directly, 360-753-2500.

Sincerely



Joseph D. Lehman
 Secretary

cc: Patria N. Robinson-Martin, Chief of Staff

LETTER FROM REGINALD A. WILKINSON

ASSOCIATION OF STATE CORRECTIONAL ADMINISTRATORS

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April 24, 2003

Hon. Howard Coble
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Hon. Robert C. Scott
Ranking Member, Subcommittee on Crime
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2464 Rayburn House Office Building
Washington, DC 20515-3306

Dear Chairman Coble and Congressman Scott:

I am writing on behalf of the state corrections directors regarding HR 1707, *The Prisoner Rape Act of 2003*, which Congressman Frank Wolf recently introduced, with co-sponsors including Congressman Bobby Scott and others.

We appreciate very much the bipartisan concern among members in Congress about sexual assault in corrections facilities. Protecting staff and inmates alike, in addition to maintaining community safety, is the core of our mission.

We support most of the objectives of HR 1707: improving our understanding of prisoner rape; preventing these crimes from occurring in the future; and responding swiftly and effectively when inmates are sexually assaulted. Prisoner rape is relatively rare in jails and prisons, and we want to do everything possible to minimize occurrences.

We are grateful for your efforts to incorporate in HR 1707 many changes that the corrections community recommended to earlier versions of this bill. Nevertheless, some provisions in HR 1707 remain that would impede – rather than assist – corrections administrators' efforts to reduce sexual assault of inmates. We also are concerned that the bill, while allocating significant resources to combat prisoner rape, overlooks the most significant public safety issues in corrections currently facing state and local governments. For these reasons, we urge you to make five modifications to the legislation.

First, with respect to the study that the bill instructs the Bureau of Justice Statistics (BJS) to conduct, we recommend the legislation clarify several important issues: 1) what constitutes rape in a correctional facility; 2) who are among the potential perpetrators; and 3) how information regarding sexual assault in the facilities will be collected. Each of these issues is quite complex; sorting them out thoroughly in the legislation itself will be extremely difficult. Accordingly, with respect to each of these issues, the bill should instruct BJS to provide opportunities for corrections administrators, corrections staff, prosecutors, police chiefs, victim advocates, former inmates, and other

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experts to inform and guide the development of the study in order to ensure the research yields an accurate, and, to the extent possible, complete, assessment of prisoner rape.

Second, the description of the Review Panel on Prisoner Rape, which the bill both establishes and directs to convene annual hearings to inform the yearly BJS study, should be changed to ensure that the information it collects is practical and useful. The bill currently charges the panel with conducting public hearings involving administrators from those facilities that appear to have high rates of prisoner rape. This process seems almost certain to promote a confrontational, and highly emotional, environment, unlikely to yield any information of real value. A much more constructive process likely to inform the BJS study considerably would be to charge the panel with consulting (and, if necessary or appropriate, taking testimony from) officials from a random selection of the original random sample of facilities identified for the survey.

Third, the National Prison Rape Reduction Commission (which is distinct from the Panel that the bill also establishes) should be directed to consult accreditation organizations that currently have standards on sexual assault, and to review existing standards and standards under development before making its final report. Currently, HR 1707 instructs this Commission to develop accreditation standards without recognizing that the members and staff of accreditation organizations, such as the American Correctional Association, have already spent an extraordinary amount of time and resources preparing standards (some of which are still under development) that address issues relating to sexual assault and the conditions of a facility or system that facilitate sexual assault. The Commission should tap these resources and avoid inadvertently undermining important work done on this issue to date.

Fourth, the legislation should limit the instances in which jurisdictions would be eligible for an increase in funding support and narrow the definition of the "source of funds for increases" from which the 10 percent reward will be drawn. As currently written, HR 1707 the legislation punishes those states and counties that do not comply with federal mandates (which have yet to be developed). To make funding available for the jurisdictions eligible for an increase, those states and counties that do not adopt the standards will lose as much as 20 percent of the federal grants they receive through the U.S. Department of Justice. Similarly, a jurisdiction not represented during the hearings that the panel conducts could lose funding support. That prospect is especially puzzling given that, as the bill is currently written, those jurisdictions that the BJS study identifies as having relatively low rates of prisoner rape would not be represented at the hearing.

Fifth, and most important, we urge you to add to the legislation language recognizing that inmate safety is actually only one aspect of a much larger, more pressing, public safety issue that may quickly become a crisis in state and local governments across the country. Extraordinary fiscal problems are prompting governors and legislatures to recommend dramatic cuts to corrections budgets that can be achieved only by reducing the prison population, or, in some states, the rate of the system's growth. State officials must soon make high-stakes decisions about their prison population, yet are without the resources to ensure their decisions are informed ones. As

a result, with budgetary pressures in the states as intense as they are, policymakers will need to make nearly blind decisions—Russian roulette with major public safety implications.

If Congress is to pass any legislation that addresses the safety of inmates, the accountability of corrections administrators, and the efficiency and effectiveness of federal expenditures through existing programs (as HR 1707 does), it needs to address state and local government officials' acute need for immediate, targeted, peer-to-peer assistance that would assist them manage corrections costs effectively without compromising public safety. States and counties considering modifications to policies that would affect, post-sentencing, jail and prison admissions or offenders' length of stay should have the benefit of data, expertise, and information about what has worked in other jurisdictions across the country.

Again, we appreciate the changes you have made to date regarding this legislation. We urge you to address the issues described above so that this bill will, in the end, help corrections administrators protect inmates, staff, and the public in general. Should you have any questions regarding our recommendations, please do not hesitate to contact Michael Thompson of the Council of State Governments (t. 212-912-0128) or George Camp of the Association of State Correctional Administrators, or me directly.

Respectfully,



Reginald A. Wilkinson, Ed.D., President
Association of State Correctional Administrators
and Director,
Ohio Department of Rehabilitation and Correction

LETTER FROM ALIDA V. MERLO

RE: HR 1707, The Prison Rape Reduction Act of 2003:

Request to Add this letter to the record for the hearing on April 29, 2003
in 2237 Rayburn House Office Building at 4:00 p.m.

May 5, 2003

The Honorable Howard Coble
Chair, Subcommittee of Crime, Terrorism and Homeland Security
Committee of the Judiciary
U.S. House of Representatives
207 Cannon Building
Washington, D.C. 20515

Dear Honorable Howard Coble:

I am writing as a criminologist to commend you for the consideration your committee has given HR 1707, The Prison Rape Reduction Act of 2003. As a former juvenile probation officer and intake supervisor in the juvenile court, and as a faculty member who has been teaching criminal justice and criminology full time for the last twenty-seven years, I can attest to the importance of this legislation. Much of my recent research and publications have been focused on juvenile offenders. Juveniles who are in the adult criminal justice system are particularly vulnerable to rape and sexual assault in the correctional environment. Hence, I applaud your efforts in working on such a significant piece of legislation.

The number of juvenile offenders incarcerated in adult institutions, both jails and prisons, continues to increase. Unfortunately, many states do not mandate the segregation of youthful offenders from the adult population. Routinely, first time youthful offenders who are fifteen or sixteen years of age can be housed with older, stronger, violent, and repeat adult offenders. Their likelihood of being victimized has been well-documented in the literature. They are five times more likely to be the victims of rape and sexual assault in correctional institutions than older inmates. The deleterious effects are long-term. Young offenders are almost certain to be released back into society. Unfortunately, when they are released, they are hostile, psychologically impaired, and sometimes more violent. Clearly, a greater awareness of their victimization is imperative.

In particular, I commend you and your sub-committee for emphasizing the need for training to increase correctional officers' sensitivity and awareness of the problem.

They are the best equipped to prevent and address the victimization in the institutions. In addition, I heartily endorse the research component of the legislation. Although inmates who have been victimized are not likely to report this information to the prison or jail administration, I am confident that the researchers will strive to develop the appropriate data collection instruments which insure inmate privacy and protection from retaliation.

Lastly, I recommend that you include criminologists in the nine member Commission or as research consultants. The field of criminology is diverse and there are academics and researchers who are uniquely qualified to inform this process and offer their expertise. I encourage you to include them.

Thank you for giving me the opportunity to share my thoughts with you. I wish you the best in your efforts to secure passage of this important legislation.

Sincerely,

Alida V. Merlo, Ph.D.
Professor

LETTER FROM MARTIN D. SCHWARTZ

May 4, 2003

The Honorable Howard Coble
Chair, Subcommittee of Crime, Terrorism and Homeland Security
Committee of the Judiciary
U.S. House of Representatives
207 Cannon Building
Washington, D.C. 20515

RE: HR 1707 The Prison Reduction Act of 2003
Dear Rep. Coble:

As a criminologist with some expertise in both prisons and also in sexual assault, I would like to write this letter to be added to the record for the hearing on April 29, 2003, in 2237 Rayburn House Office Building at 4 p.m. I represent no group in writing this letter, although Michael Israel of the Academy of Criminal Justice Sciences did bring the issue to my attention. I write this letter only as a research scientist.

I hold the titles of Presidential Research Scholar and Professor of Sociology at Ohio University, and have won a number of awards for my research over the years, in a career that has included 11 books and over 100 articles, chapters and research reports. My book Corrections went through four editions, but I am perhaps best known for my work on sexual assault. In fact, I am working right now on a chapter on male-on-male rape, including prison rape, for the second edition of my book, Sexual Assault. Thus, I have some knowledge and interest in this field.

There is no doubt that the bill is important and welcome. It is well-written and covers a very broad variety of areas. In an ideal world we hope that people leave prison motivated to "go straight." One of the things we know that prison rape does is to demoralize people, humiliate them, and foster desires to "get even." Criminologists have found some reason to believe that humiliated young men too often find weaker people to humiliate, which may mean raping women. Women and men on the outside suffer depression and stress reactions to being raped, often diverting them from school, church, job and relationships. It is no different in a prison, and the closed environment might make it worse. Rape victims often have difficulty making progress in

rehabilitative efforts, and may become disciplinary problems as a result.

My only suggestion in this letter would be that the Commission, and the people mandated to testify, may all represent advocacy groups, whether it is prison administration or victim advocacy. I would like to suggest that that one or more of those named to the Commission be criminologists without advocacy interests, and especially ones with research experience to understand and interpret the complex findings that will be generated. Those mandated to testify could also include professional researchers without either prison administration or victim advocacy ties.

I hope that you are successful in passing this very important and needed bill.

Sincerely,

Martin D. Schwartz, Ph.D.
Presidential Research Scholar
Professor of Sociology
Co-editor, *Criminal Justice: An International Journal of Policy and Practice*

LETTER FROM LEANNE FIFTAL ALARID

May 5, 2003

The Honorable Howard Coble
Chair, Crime Subcommittee
Committee of the Judiciary
U.S. House of Representatives
207 Cannon Building
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing this letter to comment on the merits of **HR 1707, The Prison Rape Reduction Act of 2003 (PRRA)**, at the suggestion of Michael Israel, the Academy of Criminal Justice Sciences Legislative Liaison in Washington.

I am currently an associate professor of criminal justice and criminology at the University of Missouri-Kansas City. My research expertise lies in the areas of prison life and institutional and community-based correctional policy. Over the last decade, I have conducted original research and published in the areas of prisoner sexual assault and coercion, race relations in jail, and prisoner and correctional officer knowledge of HIV/AIDS.

Part of my responsibility as educator and researcher is to objectively assess both the quality and the impact of policies related to criminal justice and criminology. In addition to the Congressional findings in Section 2, the research literature indicates: (1) that sexual coercion and pressuring often occurs before the attempted or completed sexual assault; and (2) a discrepancy exists between official statistics and self-reported incidents of prisoner sexual assault. Prisoners who have been sexually assaulted by other prisoners or officers are afraid to report their victimization because of intimidation and threats of further violence, staff inadequately trained to recognize the full extent of the problem, treatment deficiencies for victims, and a paucity of administrator and prisoner accountability. Because of the reported rate discrepancy, I recommend that both sexual coercion and sexual assault data be collected from three sources: official reports, self-reports from correctional officers and prisoner self-reports.

Another important point is that incidents of rape occur in county jails as often as state and federal prisons. If Congress is serious about eradicating the problem, I recommend that county jails be included in the sample of institutions. In addition, sexual assault rates vary by custody level, and seem to occur more often in maximum and medium security level units, where prisoners tend to pose a higher risk level than in minimum security units.

Finally, to maximize objectivity, I recommend that academic criminology researchers be part of the research and evaluation process (e.g., perhaps an academic could be appointed on the commission, and/or that academics in various Universities throughout the country be given the opportunity to apply for research grants in this area).

In closing, I believe that the Prison Rape Reduction Act of 2003 is a sound step in the right direction to reduce the incidence of prison sexual assault in our nation's prisons and fully recommend that Congress support this bill.

Cordially,

Leanne Fital Alarid, Ph.D.
Associate Professor and Program Coordinator, Criminal Justice and Criminology

